

# A Copenhagen Climate Treaty

## Version 1.0

A Proposal for a Copenhagen Agreement by Members of the NGO Community



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**Note:** The following text serves as a proposal and vision for the Copenhagen Agreement, it is put forward for the purpose of providing a holistic and coherent model treaty but also for initiating discussion. The information and analysis contained herein is based on existing positions and ideas from Parties and Observers that have been further developed and elaborated. The information within this text can be freely used and redistributed with no need for referencing.

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# A Copenhagen Climate Treaty

## Version 1.0

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# **Overview of the Copenhagen Climate Treaty – Version 1.0**

*A Proposal for a Copenhagen Agreement by Members of the NGO Community*

## **I. The Agreement the World Needs**

Climate change is not just a human tragedy but changes the very basis of survival on this planet. We know that our window of opportunity for limiting climate change is closing and therefore unprecedented international cooperation and commitment is required.

We need to, and we can, progress much faster, catalyzing the world onto a low-carbon development pathway that is ambitious, effective and fair and ensures that the right to survival for the most vulnerable is not sacrificed.

The **Copenhagen Climate Treaty** is a draft version of what the agreement in Copenhagen should look like. It is a **work in progress**; although the views on targets and the ambitious emission pathways will not change, the finer points are likely to evolve in step with the negotiations themselves. It is **meant to encourage and provoke countries** into thinking hard about the level of ambition, scope and detail that needs to be agreed in Copenhagen, the path to get us there and what comes afterwards.

The Copenhagen Climate Treaty, which must be adopted by all Parties, marries the need for ambitious and urgent action on adaptation and emissions reductions – driven by the science and equity – with the transformation of technology, the preservation of forests and the acceleration of sustainable development.

This NGO proposal serves as testament to the fact that compiling the Copenhagen Climate Treaty is possible today. All that is needed is that Parties have an open mind and real dedication to concluding a just, effective, science-based agreement, in time to keep global average temperature rise far below the danger threshold of 2°C.

Reaching this understanding about climate change between 192 countries will mean that the world has started to learn how to manage its planet. Failure to agree a strong, effective deal in Copenhagen will accelerate the demise into competing smaller entities, resource wars, disruption, refugees, and natural catastrophes.

Such deal in Copenhagen is a small step for governments – but a big step for humanity.

## **The Authors**

This document was drafted by individuals from around the world reflecting on countries' national circumstances and debates with the knowledge that transformation is required. While in a couple of cases more detail is provided than is likely to be agreed in Copenhagen, the core elements of each provide an understanding of what must be agreed in December. Those are summarized below.

## II. What the Deal Looks Like

The Treaty is based on the premise that all peoples, nations and cultures have the right to survive, to develop sustainably and to alleviate poverty.

The final agreement must balance the need for short-term action with medium and long-term certainty and vision on all aspects of the Bali Action Plan and the need for a legally binding form. It must be ambitious but must also safeguard the poorest people. There must be no trade off between ambition and equity.

The **shared vision** maps out the international effort required to fundamentally tackle climate change while meeting sustainable development goals. It outlines the overall long-term global objectives for the four building blocks, mitigation, adaptation, technology, and finance, showing what it takes to transform the world to a zero-carbon economy over the coming decades, including global emissions cuts of at least 80% below 1990 levels by 2050. It will additionally enshrine equity and the right to survival for countries, communities, cultures, and ecosystems, as well as the right to develop sustainably in accordance with the UNFCCC principles. The agreement then operationalizes the shared vision for a 5-year commitment period for 2013 to 2017, to be followed by subsequent 5-year periods, for all four building blocks.

### The Treaty's Legal Structure

The Copenhagen Climate Treaty should consist of three pieces: an amendment to the Kyoto Protocol, a new Copenhagen Protocol and a set of decisions by the supreme body of the Convention and its Protocols.

The Copenhagen Protocol and amended Kyoto Protocol should be viewed as a package encompassing the international community's response to avoiding dangerous climate change.

The Convention and Protocol decisions should lay the groundwork for the immediate and early action needed up to 2012 for mitigation and adaptation, including some of the decisions that will need to be adopted at COP16 by Parties to the Copenhagen Protocol.

### The Global Carbon Budget

The overall ambition of the Copenhagen deal must be to keep the rise of the world's average annual temperature **as far below 2°C warming** as necessary, compared to pre-industrial levels, to avoid catastrophic climate change.

The world must stay within a maximum carbon budget that cannot be overspent nor borrowed against in the future. It reflects the total amount of greenhouse gases the planet can bear before it tips into instability.

The planet's annual global carbon budget from all sources of greenhouse gases would in 2020 be no higher than 36.1 Gt CO<sub>2</sub>e (giga tons of CO<sub>2</sub> and other greenhouse gas emissions), roughly equal to 1990 levels and would need to be reduced to 7.2 Gt CO<sub>2</sub>e in 2050, in other words by 80 % below 1990 levels. To put the world rapidly onto an emissions reduction pathway that can achieve that, global emissions need to come back to 1990 levels by 2020.

For the annual reduction rates between 2010 and 2050 to be achievable, total global greenhouse gas emissions would need to peak in the 2013-2017 commitment period and decline thereafter. The physical emission paths would be:

- industrialised countries' fossil fuel and industrial greenhouse gas emissions would have to drop from present levels rapidly and almost be fully phased out by 2050,
- deforestation emissions would need to be reduced globally by at least 75% or more by 2020,
- developing country fossil fuel and industrial greenhouse gas emissions would need to peak before 2020 and then decline, which emphasizes the need to provide high levels of binding support by industrialized countries.

### **Historical Responsibility**

All countries must contribute to preventing dangerous climate change. However, the largest share of responsibility for staying within the carbon budget rests with the industrialized countries, obligating them to reduce emissions at home whilst enabling and supporting developing countries to develop in a low-carbon manner.

Given that the remaining atmospheric space has been constricted as a result of the excessive use of fossil fuels by industrialized countries to date, these countries need to provide significant financial, technological and capacity building support that can be monitored and measured to ensure that developing countries have the means to stay within such a carbon constrained budget and to begin to remedy the historical inequities.

To achieve the necessary emission reductions, however, more advanced developing countries must also take up the call to action. Therefore the Treaty outlines their common but differentiated responsibilities and details the support to be provided.

Newly industrialized countries like Singapore, South Korea and Saudi Arabia should also take on binding targets in line with the Convention principle of common but differentiated responsibilities and respective capabilities. The criteria for designating newly industrialized countries should be negotiated in Copenhagen.

### **III. Key Terms and Obligations**

The Copenhagen Climate Treaty lays out objectives and responsibilities for industrialized and developing countries. It also suggests new institutional and governance arrangements under the UNFCCC.

#### **Industrialised Countries**

Industrialised countries have a dual obligation under the Treaty, representing their overall responsibility for keeping the world within the limits of the global carbon budget and ensuring that adaptation to the impacts of climate change is possible for the most vulnerable. This dual binding obligation takes the form of emissions reductions as well as the provision of support to developing countries.

As a group, they should commit to an emissions pathway that includes targets for industrial GHG emissions of at least 40% below 1990 levels by 2020 and at least 95% below 1990 levels for 2050. This would mean overall carbon emissions of no more than 11.7 Gt CO<sub>2</sub>e in 2020 and no more than 1.0 Gt CO<sub>2</sub>e in 2050. Emissions from maritime and aviation sectors should be included in their reduction targets.

This will require a rapid shift from a high carbon economic growth model to a zero carbon sustainable development model. To put in place the institutions and policies necessary for such a transformation, each industrialized country should prepare a **Zero Carbon Action Plan (ZCAP)**.

These plans would outline how a country will meet both its obligations, charting the country's emissions pathway in line with the 2050 global goal and outlining the actions that will ensure that it meets its legally binding target in the short term and stay within the industrialized carbon budget in the long-term. They would also outline how a country proposes to meet its finance, technology and capacity building support obligations, including its share of the 160 billion USD\$ (115 billion Euros) annual funding requirement.

The plans would be submitted to and assessed by the newly created Copenhagen Climate Facility (CCF, see below) to ensure they are in line with meeting obligations. The CCF would be empowered to recommend additional actions and advocate penalties if not satisfied.

In order to ensure that industrialised countries meet both their emissions reductions and support commitments, both in the field of emissions reductions and support, industrialized countries should be subject to a **much stricter compliance regime**, including financial penalties and early warning mechanisms.

## **Developing Countries**

Developing country action should aim to achieve the emission reductions required to stay within the global carbon budget, at the same time leading to the eradication of poverty, meeting the Millennium Development Goals and ensuring the right to overall sustainable development. The group of developing countries would formulate an emissions reduction aim to strive for within the global carbon budget concept.

As a group, developing countries should limit the growth of their emissions through nationally appropriate mitigation actions (called NAMAs) supported by industrialized countries. Advanced developing countries should incorporate their NAMAs into **Low Carbon Action Plans (LCAPs)**, which would outline a country's plan towards a low carbon economy in the longer term. These plans should demonstrate requirements for finance, technology and capacity building support from industrialized countries to meet the developing countries' long term aim.

Building from the bottom-up of national circumstances, these actions are likely to include policies, measures and perhaps sectoral agreements. A process should be set up to match the needs of developing countries with the support to be provided by industrialized countries. Agreed actions and support would then be entered into an Action and Support Registry. A robust system to measure, report and verify such actions should be included.

The plans should address the most polluting sectors in the country whilst also looking at deforestation, transport and the built-environment, amongst others. Industrialized countries should commit considerable funds to cover the full cost of preparing these plans, immediately in 2010.

Other less advanced developing countries should also be encouraged to submit actions and plans based on their respective capacities and should be provided with the necessary support. This includes Least Developed Countries and Small Island Developing States which, while not contributing significantly to global emissions, have already shown leadership in moving towards a low carbon economy.

### **Institutions**

A new institution will be required to ensure delivery of the obligations of industrialized countries as well as implementation of the adaptation and mitigation actions in developing countries. This cannot be accomplished by a fragmented set of existing institutions. The new institution should also oversee a Technology Development Objective to ensure the spread and transfer of currently available climate friendly technologies as well as spur the development of the next generation of technologies.

The new **Copenhagen Climate Facility** (CCF) would be an enhanced finance & technology mechanism learning from the experience of already existing institutions. It should reflect a democratic decision-making structure with an equitable and balanced regional representation, ensuring significant representation from developing countries, as well as formal representation from relevant stakeholders.

The CCF would operate under the guidance and authority of the supreme body of the Copenhagen Protocol (CMCP) and consist of:

- an Executive Committee and four Boards (Adaptation, Mitigation, REDD, Technology), with joint decision making power;
- a number of *Technical Panels* which provide support to the four Boards
- a *Secretariat*; and one or more *Trustee(s) or Treasurer*, with no decision making power;
- a *Reporting and Review Committee*, that houses the various reporting, monitoring, review, assessment and verification functions of the Copenhagen Protocol

### **Adaptation Action Framework**

The Copenhagen Agreement should include a global **Adaptation Action Framework** to strengthen international activities to facilitate adaptation planning and implementation and exchange of knowledge and experience among all Parties.

The Framework should provide easy and direct access to support for the most vulnerable communities, people and countries. It should ensure maximum national, local and community level involvement and ownership over all aspects of adaptation planning and implementation. It should also promote an integrated approach that enhances the climate resilience of the poor, in particular women, children, indigenous people, and the disproportionately affected. Proper monitoring and evaluation,

building on in-country experience, would ensure effective adaptation planning and implementation.

The Adaptation Action Framework would, in particular

- Provide massively scaled-up finance in the form of periodic grant installments to developing countries, particularly LDCs, SIDS and African countries prone to droughts floods and desertification; other extremely poor and vulnerable countries, for adaptation planning and implementation, for both urgent and immediate needs as well as long-term pro-active adaptation. These installments would be based on transparent and participatory In-country Coordinating Mechanisms (ICM) to prepare and update planning and evaluate implementation.
- Establish a Climate Risk Insurance Mechanism to cover losses from high-level impacts such as tropical cyclones, and to facilitate insurance schemes, such as micro insurance.
- Establish a process to develop modalities for a compensation and rehabilitation to address slow-onset impacts of climate change such as rising sea levels and other impacts that cannot be dealt with through pro-active adaptation or insurance.

Funding for the Adaptation Action Framework would come primarily through the Adaptation Board of the Copenhagen Climate Facility.

### **Technology cooperation**

A global revolution in technology and technology cooperation is needed to accelerate the pace of innovation, increase the scale of demonstration and deployment, and ensure that all countries have access to affordable climate friendly technologies.

To achieve this revolution at the scale and speed needed will require a new approach, one that gives the UNFCCC the mandate to drive a set of Technology Action Programmes while pulling on bi-lateral and private sector initiatives. Therefore the **Copenhagen Climate Facility** and its Technology Board should coordinate the implementation of a robust and objective driven technology mechanism, leveraging a range of activities in this area.

Defining a Technology Development Objective will help to guide, transfer and drive Technology Action Programmes and should include:

- increasing financing for mitigation and adaptation related research, development and demonstration to at least double current levels by 2012 and four times current levels by 2020, with a key focus on bilateral and multilateral cooperative initiatives;
- obtaining a global average of at least two thirds of the world's primary energy demand from renewable energy sources by 2050, with the mid-term goal of achieving at least 20 percent by 2020;
- improving average energy intensity of the global economy by 2.5% per year until 2050; and
- securing access to modern energy services for all people by 2025, without locking them into a high GHG intensity development path.

## Finance

Implementation of the Copenhagen Climate Treaty will need significant financial resources. These resources should be new and additional. A substantial portion of them should be channelled through the Copenhagen Climate Facility and used – particularly with respect to mitigation – to catalyze private investment.

Financial resources will be used for mitigation, technological cooperation and innovation and adaptation in developing countries, as well as forest protection. Overall industrialized countries should provide **at least 160 billion US\$ per year for the period 2013-2017**, with each country assuming responsibility for an assessed portion of this amount as part of its binding national obligation for the same period. These commitments would be measured, reported and verified through the UNFCCC.

The main source of revenue should be **through the auctioning of roughly 10%** of industrialized countries emissions allocation with additional financing from international levies on aviation and marine sectors, with some portion also possible from national auctioning in line with a set of agreed UNFCCC criteria. A limited share could come from other means if they fulfill criteria.

The vast majority of the 160 billion US\$ per year should be deposited in the Copenhagen Climate Facility and apportioned by the four Boards as follows:

- 56 billion US\$ per year for adaptation activities;
- plus 7 billion US\$ per year for a multilateral insurance mechanism;
- 42 billion US\$ per year for REDD; and
- 55 billion US\$ for mitigation and technology diffusion per year.

## Reducing Deforestation

As forest destruction is responsible for close to 20% of global emissions, it is imperative that action to reduce emissions from deforestation be taken as part of the Copenhagen Agreement. This must be done in a manner that promotes the protection of biodiversity and fully respects the rights of local and indigenous peoples. Countries should commit to reducing emissions from deforestation to 1 Gt CO<sub>2</sub>e or less by 2020 or at least 75% below estimated 1990 emissions, with a view to eliminating nearly all human induced forest emissions by 2030.

A REDD mechanism should be established, governed by the REDD Board. Developing countries should develop National Action Plans on REDD and should receive financial support for:

- a) national-level emissions reductions against a scientifically rigorous baseline;
- b) implementation and making measurable progress towards objectives identified in the National Action Plans on REDD, including preventing increases in future emissions in countries with low historic rates but with forests at significant risk; and
- c) capacity building efforts now, up to and beyond 2012, to measure, monitor, report and verify reductions in GHG emissions or, on a transitional basis, the deforested and forest degraded area.

## **Carbon market instruments**

The Clean Development Mechanism (CDM) needs to be fundamentally restructured to better serve sustainable development and activities should be limited to Least Developed Countries and other developing countries with little capacity to act.

For advanced developing countries, new carbon market mechanisms that provide incentives for long-term low-carbon development planning on a sectoral or economy-wide level, should be created.

## A Proposal for a Copenhagen Agreement by Members of the NGO Community

In the following section we will guide you through the agreement we are proposing. It gives a comprehensive overview of the agreement, which itself consists of a Copenhagen Protocol and amendment of the Kyoto Protocol.

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## **Introduction**

Climate change is the most important issue facing the planet and its people today. Meeting that challenge will define a generation and dictate the extent of the impacts to be felt by generations to come. Governments will write the next chapter of this saga six short months from now in Copenhagen. Here they must step up to this challenge and put the world on the path to sustainable development. New science demonstrates that an increase in global temperature of even 1.5°C could lead to irreversible impacts. We therefore need a pathway that will keep us as far below 2°C as necessary. Achieving this will require a collective ambition on the part of all governments and peoples but in doing so, we can protect millions from the damaging impacts of climate change; protect the economy from greater shocks than the current economic crisis and keep some of the world's most cherished and fragile ecosystems in the Arctic, the Sundurbans Delta and the Great Barrier Reef from disappearing. Kyoto was a small step forward; Copenhagen must be a giant leap.

This document contains a draft version of how the climate deal in Copenhagen could look in both narrative and legal form. It should be read for its principles, substance and structure rather than any specific legal language *per se*. It is very much a **work in progress**, but is **meant to encourage and provoke countries** into thinking hard about the level of ambition, scope and detail that needs to be agreed in Copenhagen, the path to get us there and what comes afterwards. The Copenhagen Agreement must represent a deal that can be adopted by all Parties, marrying the need for ambitious and urgent action on adaptation and mitigation - driven by the science and equity - with the transformation of technology, the preservation of forests and the acceleration of sustainable development.

The urgency of the science and the need to ensure the survival of all countries and cultures dictates that our views on the level of ambition (namely the global carbon budget and targets) will not change; the finer points of this proposal are likely to evolve in step with the negotiations themselves. **This document is meant to support the efforts by the Parties as well as the Chairs of the AWGLCA and AWGKP as they intensify negotiations towards legally binding, ratifiable outcomes in Copenhagen.**

## **Shared Vision**

Governments must agree to a shared vision that maps out the international effort required to fight climate change and summarizes what is required for enhanced action on each of the building blocks of the Bali Action Plan. This vision should reaffirm that all peoples, nations and cultures have the right to survive, to develop sustainably and to alleviate poverty. The vision should also expound Parties' commitment to protect vulnerable ecosystems. It must outline the level of ambition needed to stay as far below 2°C as necessary and how the remaining carbon space can be shared equitably, recognizing historical responsibility as well as the Convention principle of common but differentiated responsibilities and respective capabilities. Furthermore, it should highlight the need for continual review as new climate science becomes available.

A framework for adaptation is needed that will ensure that all countries, especially the most vulnerable, are in a position to minimize climate impacts and build climate resilience; reference to this framework should be made in the shared vision. The vision should also recognize that there are limits to adaptation and hence people for whom adaptation is no longer an option will have to be insured and compensated adequately. Finally, the shared vision should delineate how those countries with the means to will support the building of adaptive capacity and climate resilience and nationally appropriate mitigation actions in developing countries. Such support should include the provision of financial resources, technology co-operation and capacity-building for developing countries.

Above all, the shared vision should be inspirational and show the way forward for an ambitious and equitable agreement. It should include mid and long term numerical objectives for mitigation, adaptation, technology and finance that will give each of the Bali Action Plan building blocks an objective to strive for and be reviewed against, as part of the agreement's review clause. These objectives are listed below in each of the sections.

### **The “Agreement” - Legal Structure**

The ‘Copenhagen Agreement’ is envisaged as encompassing three pieces: an amendment to the Kyoto Protocol, a new Copenhagen Protocol and a set of COP and CMP<sup>1</sup> decisions. Many of the provisions in the Copenhagen Protocol should mirror amendments and provisions of the Kyoto Protocol, particularly for commitments and compliance structure related to industrialized countries that have not yet ratified the Kyoto Protocol. The shared vision should be the same across both Protocols.

To streamline the negotiations and avoid duplication of effort, industrialized countries that have not ratified the Kyoto Protocol should engage as active observers in the AWGKP negotiations even if their ultimate commitments, including a quantified emissions reduction commitment (QERC), will be inscribed in an Annex B of the Copenhagen Protocol. All countries should recognize and support the engagement by these observers.

The Copenhagen Protocol and Kyoto Protocol as amended should be viewed as a package encompassing the international community's response to avoiding dangerous climate change. Countries should ratify the amendment of the Kyoto Protocol (with the exception of the Annex 1 non-KP ratifiers) and the Copenhagen Protocol simultaneously. Entry into force provisions should ensure that there is no gaming of the system and should encourage rapid entry into force of the Amendment/Protocol.

A set of COP or CMP decisions should build upon the Marrakech Accords, lay the groundwork for the action needed up to 2012 and include some of the decisions that the meeting of the Parties to the Copenhagen Protocol will need to adopt at its first session (a mini-“Marrakech type Accords” to be supplemented by further decisions at COP16).<sup>2</sup>

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<sup>1</sup> Conference of the Parties serving as the meeting of the Parties to Kyoto Protocols, as well as the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol (then CMCP).

<sup>2</sup> We envisage that all the decisions the meeting of the Parties to the Copenhagen Protocol should adopt at its first session, as indicated in the treaty document, would be agreed by 2010.

## **SYSTEM OF FIVE YEAR COMMITMENT PERIODS – 2013-2017, 2018-2022...**

While the shared vision will contain a long-term outlook giving the world as well as investors certainty on the course of action, we propose that the other operational parts of two Protocols should be designed for a five year commitment period. The short term commitments and actions, whilst aiming for long term transformation, will be first set for 2013 and to 2017. This commitment period will then be followed by subsequent five year periods. A five year commitment period is necessary for two important reasons: firstly, because five years falls within the period of governments' planning horizons and it is a length of time where they can be held accountable; secondly, because the knowledge about climate science and the experience with implementation of the UNFCCC increases rapidly, five year steps are a good period to update the international framework. To increase longer term investor confidence, a default reduction mechanism is proposed (see below).

## **The Global Carbon Budget**

Scientific developments, which build upon the IPCC Fourth Assessment Report (AR4), confirm that there is no time for delay in reducing global emissions rapidly if dangerous and disruptive climatic changes are to be prevented. All countries, based on the principle of common but differentiated responsibilities and respective capabilities, must reduce or limit emissions of greenhouse gases if a rapid reduction of global emissions is to be achieved. In the end, countries need to agree on the total maximum amount of global greenhouse gases (in carbon dioxide equivalents) that can be released into the atmosphere at specific times. This will define the likelihood of staying below agreed temperature limits. This 'agreed atmospheric space' can then be translated into a series of global and/or national carbon limits or budgets for specific periods of time, and the additional finance and technology needed to stay within those limits identified.

**It is proposed that the global carbon budget approach be used as the basis for outlining the overall mitigation ambition required of the Copenhagen Agreement, in order to chart a course that ensures a good likelihood of preventing the worst impacts.<sup>3</sup>**

Recent research shows that it is likely that if emissions are more than 25% above 2000 levels in 2020 there would be greater than a 50% chance of exceeding 2°C in this century, even if emissions were thereafter reduced to low levels by 2050.<sup>4</sup> A budget for the year 2020 that brings global emissions back to 1990 levels has been selected. This would rapidly move the world onto an emissions reduction pathway that would have a likely chance of peaking warming below 2°C. A higher level of emissions in 2020 would require significantly faster rates of reduction in the period afterwards until 2050 to keep within the same level of certainty of staying below 2°C.

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<sup>3</sup> A detailed explanation for the carbon budget approach and the assumptions selected is given in a separate briefing, including an explanation for the separation for REDD and industrial emissions.

<sup>4</sup> Meinshausen, M. et al. *Nature* 458, 1158-1162 (2009).

Hence:

- The annual global carbon budget in 2020 from all sources of greenhouse gases (not counting those controlled by the Montréal Protocol) would be no higher than 36.1 Gt CO<sub>2</sub>e, roughly equal to 1990 levels, and would need to be reduced to 7.2 Gt CO<sub>2</sub>e in 2050, in other words by 80 % below 1990 levels.
- To keep the annual reduction rates between 2010 and 2050 achievable, total global greenhouse gas emissions would need to peak in the 2013-2017 commitment period and decline thereafter.
- To achieve this, Annex-I fossil fuel and industrial greenhouse gas emissions would have to drop from present levels rapidly and be almost fully phased out by 2050. Deforestation emissions would need to be reduced globally by 75% or more by 2020. Non-Annex-I fossil fuel and industrial greenhouse gas emissions would need to peak prior 2020 before beginning to decline, which underlines the large scale MRV support required to make such a peaking possible.

These are the **physical emission reductions needed**, based on the assumption that a high likelihood of staying below two degrees Celsius warming is wanted. However, the physical reductions described do not automatically equate to be allocations or a legal responsibility. Similarly, *how* the costs of achieving these physical emission reductions should be shared among industrialized and developing countries is a separate issue. These two issues – legal responsibility and cost sharing – are addressed below.

All countries must contribute to preventing dangerous climate change. However, the largest share of responsibility for staying within the carbon budget rests with industrialized countries, who should fulfill this responsibility by reducing emissions at home whilst enabling and supporting developing countries to develop in a low-carbon manner. Given that the remaining atmospheric space has been constricted as a result of the excessive use of fossil fuels by industrialized countries to date, significant measurable, reportable and verifiable (MRV) financial, technological and capacity building support will be required from industrialized countries to ensure that developing countries have the means to stay within such a carbon constrained budget and to begin to remedy the historical inequities.

The carbon budget share for a developing country **does not equate to a top-down allocation of reduction responsibility**, but rather an aim that developing countries should strive to achieve with the pre-condition of support from industrialized countries.

The aim of the Copenhagen Agreement is to find a way to combine the environmental objective of a limited atmospheric space with the right to develop sustainably, facilitate substantial financial and technology transfers, and get out of the “carbon trap”.

## **REDUCING EMISSIONS FROM DEFORESTATION**

As forest destruction is responsible for close to 20% of global emissions, it is imperative that action to reduce emissions from deforestation be taken as part of the Copenhagen Agreement. This must be done in a manner that promotes the protection of biodiversity and fully respects the rights of local and indigenous peoples. Countries should commit to reducing emissions from deforestation<sup>5</sup> to 1 Gt CO<sub>2</sub>e or less by 2020 or at least 75% below estimated 1990 emissions,<sup>6</sup> with a view to eliminating nearly all human induced forest emissions by 2030.

## **The “Agreement” – Dual Commitments from Industrialized Countries**

For industrialized countries, the Copenhagen Agreement should inscribe dual commitments that together should be an expression of their overall responsibility for keeping the world within the limits of the global carbon budget, and for ensuring that adaptation to the impacts of climate change is possible for the most vulnerable. The dual commitments are:

- 1) Quantified Emission Reduction Commitments
- 2) Support Obligations

## **QUANTIFIED EMISSION REDUCTION COMMITMENTS**

### ***Industrialized country mitigation commitments in the shared vision***

As part of the shared vision to avoid dangerous climate change, industrialized countries,<sup>7</sup> as a group, should commit to an emissions pathway that includes targets for industrial GHG emissions of at least 40% below 1990 levels<sup>8</sup> by 2020 and at least 95% below 1990 levels for 2050. This would mean capping their aggregate emissions to no more than 11.7 Gt CO<sub>2</sub>e in 2020 and no more than 1.0 Gt CO<sub>2</sub>e in 2050. An indication of their 2030 and 2040 carbon budgets should also be provided (namely, 7.8 Gt CO<sub>2</sub>e and 3.9 Gt CO<sub>2</sub>e respectively).

### ***Binding reduction targets for the 2013-2017 Commitment Period***

Legally binding reductions targets for the 2013-2017 commitment period should be included in the operational section of the Protocols and be consistent with the 2020 goals. As a group, industrialized countries must reduce their emissions by 23 % below 1990 levels by 2015 (a mid point for the 2013-2017 commitment period). This target is consistent with an emissions reduction trajectory that yields a 40 % reduction in emissions by 2020 and, when combined with supported developing country actions, with peaking global emissions during the 2013-2017 commitment period.

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<sup>5</sup> It is assumed that the great majority of deforestation emissions occur in developing countries as demonstrated by the data. The reduction percentage applied here is with respect to the net land use change emissions assumed for 1990.

<sup>6</sup> The net emissions from land-use change in 1990 are assumed here to be 3.9 Gt CO<sub>2</sub>e/year for ease of comparison with SRES projections. Gross emissions will in general be higher than this estimate - recent estimates of this figure are about 30% higher than the net emissions assumed here.

<sup>7</sup> Emission reduction targets used here only include those countries currently listed in Annex I. As we believe that the newly industrialized countries should join Annex B, the aggregate target for the expanded group that will take on targets under the Annex B's of both Protocols remains to be calculated.

<sup>8</sup> Assumed to be 19.5 Gt CO<sub>2</sub>e in the harmonized SRES data. The latest UNFCCC data for Annex I Parties indicate 18.7 Gt CO<sub>2</sub>e for 1990 levels. This differs by about 4% from the SRES data due to different data sources.

The vast majority of these emissions reductions should be achieved through domestic action. Individual Quantified Emission Reduction Commitments (QERCs) undertaken by industrialized countries should be comparable in nature and scale with each other; be determined on the basis of responsibility, capacity to act and mitigation potential; take into account any banking of AAUs from the first commitment period of the Kyoto Protocol and be subject to a strict compliance regime.<sup>9</sup> Only minor changes to the LULUCF rules should be made through CMP decisions.

### ***Newly Industrialized Countries to take on targets***

Newly industrialized countries (NICs) from the non-Annex 1 group of the Convention, like Singapore, South Korea and Saudi Arabia<sup>10</sup> should also take on binding commitments in the form of Quantified Emission Limitation or Reduction Commitments (QELRCs) in “Annex B” of the Copenhagen Protocol.<sup>11</sup> This proposal is in line with the principles of the Convention, namely, the principle of common but differentiated responsibilities and respective capabilities and Article 4.1. The criteria for designating newly industrialized countries should be negotiated in Copenhagen. This is a fair and equitable proposal and a logical consequence of the principles of the Convention.

### ***Default reduction mechanisms for post-2017***

To ensure industrialized countries remain on this ambitious emission reduction pathway, a default annual reduction in the quantified emissions reductions commitments (QERCs) of industrialized countries post-2017, combined with a continuation of the underlying decisions, should be included in the Protocols in case subsequent negotiations are delayed or unsuccessful.

## **SUPPORT OBLIGATIONS BY INDUSTRIALIZED COUNTRIES**

Industrialized countries must massively scale up financial, technological and capacity support to developing countries for their mitigation and adaptation efforts. In the next commitment period, at least 160 billion US\$<sup>12</sup> per year should be raised by industrialized countries, primarily through the auctioning of emissions allowances to cover developing countries’ incremental costs. Shifting the world onto a low-carbon development pathway and increasing climate resilience will require the rapid diffusion of currently available technologies and investment in the development of next generation technologies. At least a doubling of current spending on research,

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<sup>9</sup> The aggregate potential surplus from Parties to the Kyoto Protocol is around 7.4 billion AAUs for the first commitment period. This amount could lower the aggregate reductions by Annex I Parties by 4% or more for subsequent commitment periods. This number does not yet reflect the economic crisis, which might compound the problem.

<sup>10</sup> This group of countries whose PPP adjusted GDP per capita exceeds 20 000 US\$ a year, which could be applied as one indicator for NICs, include Bahamas, Bahrain, Brunei, Kuwait, Oman, Qatar, Saudi-Arabia, Seychelles, Singapore, South Korea, Trinidad & Tobago, United Arab Emirates. It could, however, be considered that small island states will have enough burden to carry with huge adaptation challenges, so that they be exempted from QELRCs.

<sup>11</sup> With adding this set of countries to Annex B of the Copenhagen Protocol, these newly industrialized countries take on the same responsibilities as the Annex 1 countries have under the Kyoto Protocol and Copenhagen Protocol respectively (these Annex 1 countries are then also in the respective Annex B’s of the Protocols). For the purposes of the rest of the narrative, when we say industrialized countries, or QERCs, we also mean to apply the same to the NICs and their QELRCs.

<sup>12</sup> Equals roughly to 115 bln €.

development and deployment (RD&D) by 2012 and a quadrupling by 2020 is needed to spur innovation. A significant portion of this RD&D support should take the form of cooperative ventures, especially with developing country partners. Furthermore, industrialized countries should promote, facilitate, and finance, the development, deployment, transfer, diffusion or access to environmentally sound mitigation and adaptation technologies and know-how.

#### **OBLIGATION TO PUT IN PLACE “ZERO-CARBON ACTION PLANS” (ZCAPs)**

Each industrialized country, including every NIC, should develop a Zero Carbon Action Plan (ZCAP) for meeting its dual obligations. This forward looking plan should identify the transformation strategies, and policies and measures a country plans to implement to meet its QERC or QERLC and stay within its carbon budget through 2020, 2030, 2040, and 2050. This Plan should be in addition to national communications but build on and link to the national communication process and guidelines already in existence, where appropriate. The Plan should also clearly articulate how a country proposes to fulfill its MRV support commitments for ensuring the means of implementation are available to developing countries for their mitigation and adaptation efforts. The Plan should be updated at the beginning of each commitment period in line with obligations for that period. Progress with implementing the Plan should be reported as part of a biennial national communication, the guidelines for which should be updated accordingly.

#### **STRINGENT COMPLIANCE FOR DUAL COMMITMENTS**

All industrialized countries must act – immediately and ambitiously. Compliance should not only be assessed at the end of the commitment period. Early warning triggers should be put in place to flag when a country is behind in meeting its mitigation or MRV support obligations for finance, technology, and capacity building and then refer to said country to the Compliance Committee. The consequences for non-compliance should be strict; including, *inter alia*, heavy financial penalties.

Further elaboration on the ZCAPs and the reporting, review and compliance for industrialized countries can be found in their respective sections below.

### **The “Agreement” – Low Carbon Development in the Developing World**

#### **DEVELOPING COUNTRIES’ SHARE OF THE GLOBAL CARBON BUDGET**

In recognition of the Convention principle of common but differentiated responsibilities and respective capabilities as well as historical responsibility, the majority of the remaining carbon budget space must be left for developing countries. These countries, as a group, should, through their Nationally Appropriate Mitigation Actions (NAMAs) and supported and enabled by industrialized countries, aim to limit their industrial GHG emissions to less than 25 Gt CO<sub>2</sub>e annually during the 2013-2017 period and should aim to keep their emissions to 23.5 Gt CO<sub>2</sub>e by 2020 (emissions from deforestation are covered in the global carbon budget chapter above)

and in the REDD chapter below).<sup>13</sup> This translates as a non-binding aim for developing countries as a group to limit their emissions to 84% above 1990 levels by 2020, in order to stay within the 2020 carbon budget. By 2050, developing countries, as a group, should aim to keep their emissions to 6.3 Gt CO<sub>2</sub>e. This would mean aiming for reducing emission by 51% by 2050 compared to 1990 levels. This can only be achieved with the proviso that adequate levels of binding, measurable, reportable and verifiable support in the form of finance, technology and capacity is provided by industrialized countries. Measures should be put into place to avoid double counting of actions supported by market means. **It is clear that the larger the share of emissions industrialized countries reduce at home, the later the emissions peak can happen in the developing world.**

Deep and rapid reductions in emissions from deforestation play a very important role in enabling the global emissions budget and pathway to be met in both the short and long-term. If deep emissions reductions from deforestation are not achieved then there would need to be even more rapid reductions of industrial greenhouse gas emissions from both Annex I and non-Annex I countries, in order to stay within the overall global limits outlined here. Early reductions in deforestation help meet the global peak in total greenhouse gas emissions and ensure that global emissions can be limited to 1990 levels by 2020.<sup>14</sup> The elimination of emissions from deforestation after 2030 allows more space for industrial emissions in the middle decades of the 21st century within the same global emissions budget. The efforts to reduce emissions from deforestation should be also supported and enabled by industrialized countries. This can only be achieved with the proviso that adequate levels of binding, measurable, reportable and verifiable support in the form of finance, technology and capacity is provided by industrialized countries.

### **DRAW UP LOW CARBON ACTION PLANS (LCAPS)**

To achieve this ambitious aim, advanced developing countries should develop Low Carbon Action Plans (LCAP) which are visionary long-term strategies that provide a roadmap for the transition to a low carbon economy. The vision should include measures to reach their shared aim in the short-term as well as the carbon budget ambition for 2030 and 2050. Existing and planned NAMAs would form the building blocks to achieve this long-term strategy. The LCAP would integrate both the mitigation and adaptation plans of the country. Other developing countries as well as the Least Developed Countries and SIDS are also encouraged to develop such plans in the medium term but would be able to submit their National Adaptation Action Plans and NAMAs, including SD-PAMs, as their contribution to the effort in the interim.

Further elaboration on the actions put forward by developing countries and the support mechanisms is to be found in the subsequent chapters on “Low-Carbon Action Plans”, “Adaptation”, “Governance and Institutions” below.

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<sup>13</sup> Please read extra briefing on the global carbon budget approach, for reasoning of why the industrial and REDD emissions were separated out for purposes of calculating these carbon budget numbers.

<sup>14</sup> This translates into a deviation between [3-35%] below the SRES BAU scenario baseline for industrial greenhouse gas emissions by 2020, with the most common estimate at around 21-24%.

## **Governance and Institutions – Copenhagen Climate Facility**

To avoid dangerous climate change and build climate resilience, the way society is structured will need to change fundamentally - from investment patterns to development programs. This cannot be accomplished by a fragmented set of existing institutions. In order to enhance the implementation of the Convention in accordance with the Bali Action Plan and its four building blocks, a new institution, the Copenhagen Climate Facility (CCF), is needed. This institution should ensure the comprehensive, effective and inclusive delivery of the obligations of industrialized countries (QERC's and MRV Support) as well as the implementation of the actions (adaptation and mitigation) in developing countries, with a necessary level of accountability. It should also oversee the Technology Development Objective (see technology chapter below) of the shared vision to both diffuse currently available climate friendly technologies as well as spur the development of the next generation of technologies.

### **PRINCIPLES & (DE)-CENTRALIZED HYBRID MODEL OF THE OPERATING ENTITY**

The new Facility would not be an aid mechanism, reflecting a donor-recipient relationship, but rather a mechanism that fulfills and matches the commitments agreed in the Convention, as further specified under the new Copenhagen Protocol. This enhanced finance & technology mechanism should learn from the experience of already existing institutions. Overall the governance of the mechanism should reflect a democratic decision-making structure, which is not the case with most existing institutions: The CCF should have an equitable and balanced regional representation, ensuring significant representation from developing countries, as well as formal representation from relevant non-governmental stakeholders. Securing the representation of the most vulnerable countries should be a priority, as they will be most impacted by unchecked climate change.

The chief purposes of the mechanism would be 1) to deliver finance, technology and capacity building support for adaptation and mitigation in developing countries, in the context of their Low Carbon Action Plans, which also integrates the Adaptation Action Framework (see adaptation chapter), 2) to establish and manage the technology cooperation framework (see technology chapter) and 3) to manage and review industrialized country Zero Carbon Action Plans (see the ZCAP chapter). Below is a schematic representation of the new Facility, and the way the Facility would interact with national institutions. The Global Fund for AIDS, TB and Malaria and the Multilateral Fund for the Implementation of the Montreal Protocol are highly successful funding models. The new facility would learn from the experiences of those funds in order to enhance implementation as foreseen by the Bali Action Plan. The proposed facility builds on these success features.

The mechanism follows a hybrid of a centralized & decentralized model:

*Centralized elements:* Most revenues from the industrialized countries' finance support obligations, generated primarily through auctioning of Assigned Amount Units (outlined below) would go into this central facility.

*Decentralized elements:* Direct access to funds would be disbursed to implementing agencies that could be at national and state/province or regional level. These agencies would have to be approved by the Climate Facility's Executive Committee and meet the criteria and guidelines established by the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol, (CMCP). Potential implementing agencies could include regional development banks, national funds and bi-lateral programs. Additionally, bilateral or multilateral funding or technology cooperation outside of the Copenhagen Climate Facility could count towards industrialized country MRV support obligations, but only if it is in compliance with CMCP established criteria for Art. 11.5 of the Convention and has been approved by the CCF (see finance chapter).

## **INSTITUTIONAL ARRANGEMENTS**

The *Copenhagen Climate Facility (CCF)* will operate under the guidance and authority of the COP serving as the MOP to the Copenhagen Protocol (CMCP). The Climate Facility would consist of:

- an *Executive Committee and four Boards (Adaptation, Mitigation, REDD, Technology)*, who jointly have the decision making power;
- a number of *Technical Panels* which provide support to the four Boards
- a *Secretariat*; and one or more *Trustee(s) or a Treasurer*, decided on through an open bidding process for the Climate Facility with no decision making power;
- a *Reporting and Review Committee*, that houses various reporting, monitoring, review, assessment and verification functions of the Copenhagen Protocol (see chapters on reporting & review below). Compliance matters would be dealt with under separate compliance structures, building on those originally created for the Kyoto Protocol.

## **FUNCTIONING OF THE NEW FACILITY**

### ***Role of the CMCP***

The new Facility would operate under the guidance and authority of, and be accountable to, the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol, recognizing that decentralized funds would be subject to MRV criteria and approval.

The CMCP would provide the overarching framework, principles and guidance to the Facility, including the reporting requirements and elect the Executive Committee and Boards of the CCF.

### ***Operating entity structure***

The *Executive Committee (ExComm)* together with its boards and technical panels would constitute the operating entity of the Facility. The ExComm would decide on the procedures, operation guidelines, modalities, policies, and programme priorities based on the framework provided by the CMCP. Only the ExComm could make allocation decisions between the four boards but must do so within the guidelines and principles decided by the CMCP. It could only overturn decisions of the boards if the board decision is non-compliant with the rules and guidelines as set by the CMCP. Additionally, the ExComm is the only one with the direct relation to the trustee or

treasurer directing the trustee or treasurer to disburse funding. The ExComm should develop rules for direct access to support by all Parties, the full participation of civil society and set fiduciary standards.

The *four boards* would be the primary operational business entities of the Facility. Members of these Boards are political representatives responsible for making decisions within the framework of the Protocol. Depending on the mandate, they would oversee and monitor the technical operations of the facility, establish and ensure compliance with standards, including MRV, operate and manage funds and establish and manage links to the registry. The boards would also determine the needs for implementing the Protocol, establish the criteria for the Technical Panels and criteria for accountability & transparency. Technology diffusion and transfer as well as capacity building are cross-cutting and should be considered by all four boards.

The four boards would be:

- a) the Adaptation board (see adaptation chapter)
- b) the Mitigation board (see LCAP/NAMA and ZCAP chapter)
- c) the REDD board (see REDD chapter)
- d) the Technology board (see technology chapter)

The *Technical panels*, consisting of experts from governments, NGOs/CSOs, industry and academia, as well as indigenous and local communities, would provide expertise, assessment, and planning capacity to the boards. The Technical panels should build on existing expert groups, such as the Expert Group on Technology Transfer (EGTT) or the Least Developed Countries Expert Group (LEG).

The Reporting and Review Committee of the Executive Committee would report to the CMCP on the fulfillment of industrialized country MRV support commitment and ZCAP development at an early stage and measure emission reductions against their binding caps, developing country LCAP and NAMA development and implementation.

### **IN-COUNTRY COORDINATING MECHANISM**

For interacting with the Climate Facility each country would establish or designate one or several In-country Coordinating Mechanisms (ICM), which would be a nationally appropriate, country-driven process representing all relevant stakeholders.

They would:

- develop proposals for action, including outlining the support necessary to implement them
- be eligible to receive the funds and to disburse and oversee the use of them as foreseen in their LCAPs and National Adaptation Action Strategies
- can request assistance from the Technical Panels, in particular with a view to cooperating closely with the Technology Board
- follow guidelines for adequate, active and meaningful stakeholder participation.

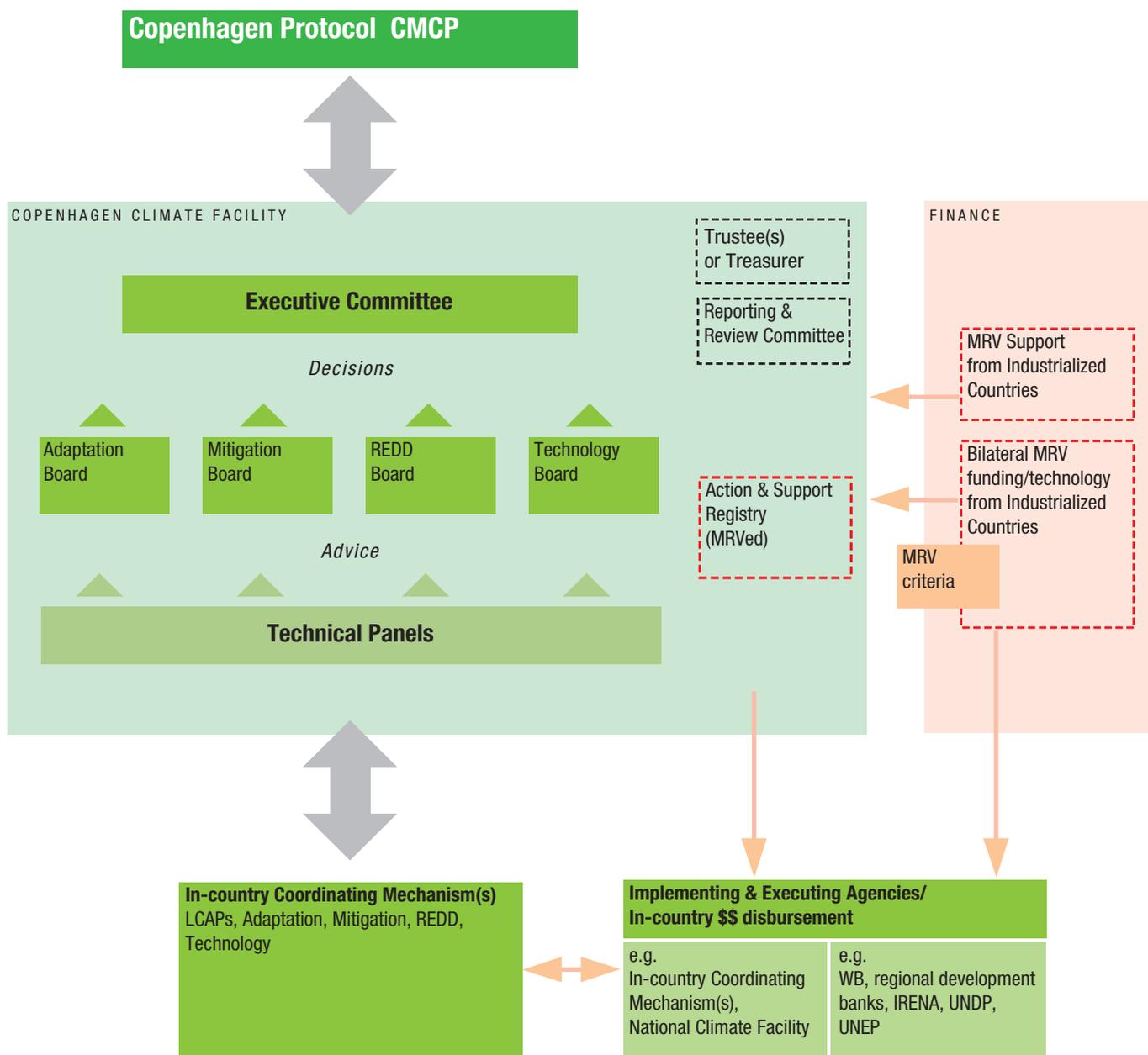
A country could decide whether they would have a single entity that deals with both adaptation and mitigation or have separate entities dealing with this. Given that the LCAPs of developing countries would include ideally both adaptation and mitigation strategies and to ensure that there is integration of plans and actions, a single entity would be preferable. But this is clearly an issue that would need to be decided on by the individual country based on their needs and circumstances. Guidelines for ensuring adequate and active stakeholder participation should be developed by the Executive Committee.

#### **ACTION AND SUPPORT REGISTRY**

The Climate Facility runs the international action and support registry, established with the Copenhagen Protocol, listing for mitigation: a) approved NAMAs, received proposed NAMAs and NAMAs in the pipeline and required, allocated and received MRV support; b) approved MRV support against an industrialized country's established MRV commitments. The Climate Facility will regularly report on the status of the Action and Support registry to the CMCP.

Refer to a depiction of the proposed "Copenhagen Climate Change Facility" on the next page.

**Copenhagen Climate Facility – finance and technology mechanism of the Copenhagen Agreement**



Depiction of the proposed “Copenhagen Climate Facility” as the operating entity of the finance and technology mechanism to the Copenhagen Protocol. The Executive Committee and four boards hold the decision making power within the facility, including over disbursement of funds, under the authority and guidance of the Conference of the Parties serving as the Meeting of the Parties to the Copenhagen Protocol (CMCP). The boards receive the support of technical panels. The facility is given the task of managing the action and support registry. This registry provides an overview over the NAMAs, as well as the MRV’d support that industrialized countries provide against their Copenhagen Protocol support obligations. The chief amount of the support obligations would be generated through auctioning of AAUs and paid into the bank account of the facility, while a small share (amount to be determined

prior as part of the Copenhagen Agreement) could be provided through funding that is outside of the UNFCCC, but which is approved by the Facility as meeting the agreed MRV criteria. The facility is not meant to do all the implementation, but has a coordination and facilitation function Hence an important element is the strong role of national level „In-country coordinating mechanisms“ as well as „Implementing and executing agencies“ and „In-country \$\$ disbursement agencies“ that support the delivery of the funding, implementation of actions, as well as objectives and action programmes of the technology mechanism within the Facility. The technology mechanism is coordinated by the technology board together with its related technical panels and in cooperation with outside agencies, for example with IRENA or other entities, in delivering individual technology action programmes.

## **Adaptation**

The Copenhagen Protocol should include a global *Adaptation Action Framework* (AAF) to strengthen international activities to facilitate adaptation planning and implementation and exchange of knowledge and experience among all Parties. It would also massively increase immediate and long-term support to developing countries, particularly LDC, SIDS and African countries prone to droughts, floods and desertification and other extremely poor and vulnerable countries, to adapt to climate change and cope with the now unavoidable impacts.

### **KEY OBJECTIVES**

The Framework should be designed to:

- provide easy and direct access to support the most vulnerable communities, people and countries, protecting, respecting and fulfilling their fundamental rights; and promote ecosystem adaptation;
- ensure all Parties meet their adaptation-related commitments under the Convention and the Bali Action Plan, in particular the provision of financial support by industrialized countries to support developing countries;
- maximise national (and local/community) level ownership over planning and implementation and the national disbursement of adaptation finance; enable and encourage participatory local-level planning and implementation following internationally acknowledged guidelines such as those stipulated by the right to adequate food;
- promote an integrated approach to adaptation which is aimed at enhanced resilience through a reduction of vulnerability of the poor, in particular women, children, indigenous people, and the disproportionately affected, linked closely with existing development processes, institutions and mechanisms;
- ensure an effective monitoring and evaluation system, building on in-country experience.

### **KEY ASPECTS OF FUNCTIONING AND FUNDING**

Funding to support the Adaptation Action Framework would come through the Adaptation Board of the Copenhagen Climate Facility (see finance section below).

This Adaptation Board would:

- receive at least 63 US\$ billion annually over the 2013-2017 period, provided in particular by industrialized country Parties to fulfill their commitments to support developing country parties to adapt to climate change. These resources should be additional to financial resources delivered to reach developed countries' 0.7% ODA commitments;
- primarily disburse financial support, in the form of grants not loans, to developing countries for planning and implementing adaptation, particularly LDCs, SIDS and African countries prone to droughts, floods and desertification and other extremely poor and vulnerable countries;

- support capacity building, urgent priority actions as well as longer-term national adaptation action strategies;
- earmark [10%] of the resources to support actions under the Adaptation Readiness and Urgent Actions pillar (see below);
- other funding purposes include a Climate Insurance Mechanism, the continuation of the Nairobi Work Programme, regional cooperation and activities of international organizations and NGOs;
- establish a process to develop modalities for a Compensation and Rehabilitation Mechanism.

The Adaptation Board (AB) should be based on the governance and operational principles of the Adaptation Fund. The existing Adaptation Fund Board could be expanded to take up the role of, and essentially become, the AB. This Board would be assisted in operating the Adaptation Action Framework through an Adaptation Technical Panel (ATP).

#### **DEVELOPING COUNTRIES OPERATING UNDER THE ADAPTATION ACTION FRAMEWORK**

Under the AAF, developing countries would receive financial support for planning and implementing adaptation under two pillars – simultaneously or in a staged approach, e.g. starting with the first pillar and phasing in the second pillar as nationally appropriate.

Under the first pillar, the Adaptation Readiness and Urgent Actions Pillar, developing countries – primarily those particularly vulnerable to climate change - would receive upfront finance, as well as technological and capacity-building support, to:

- plan and implement urgent adaptation action to minimise impacts on the poorest and most vulnerable while contributing and linking to disaster risk reduction, resilience building and sustainable development; building and expanding on, where appropriate, NAPA experience or comparable in-country processes;
- generate information, including to guide funding allocation, on local impacts, vulnerabilities, demographic analyses, risk assessments (with reference to basic human rights standards such as those from the ICESCR), by supporting existing scientific and institutional capacity where it exists and investing in it where it does not;
- invest in setting up sustainable systems for the dissemination of the information of climate impacts, to ensure that stakeholders are sufficiently informed to participate effectively in adaptation planning;
- invest in the processes and institutions needed for sustaining planning, implementation and monitoring activities, in a manner that enables and encourages the participation of all stakeholders, particularly vulnerable communities and their ability to access funding, laying the foundation for more comprehensive and larger scales of investment for longer term strategic adaptation planning and implementation.

**The Copenhagen Agreement should include COP decisions to a) fill the \$2 billion NAPA funding gap and establish a work programme to remove other barriers for full NAPA implementation; and b) establish a work programme to bring the provisions of the above-mentioned Action Level in operation as early as 2010, to graduate into the full Adaptation Readiness and Urgent Actions Level of the Copenhagen Protocol by the date it enters into force.**

Under the second pillar, the Pro-Active and Integrated Adaptation Pillar, developing countries would receive periodic and predictable finance to:

- Set up new, or enhance existing, institutions or processes to take the role of a nationally appropriate In-Country Coordinating Mechanism (ICM), including identifying the most appropriate form of such a mechanism. The ICM would:
  - (i) be a country-driven process, representing all relevant stakeholders, particularly most vulnerable communities, ensuring a bottom-up approach to identify adaptation needs on local, sub-national and national levels;
  - (ii) coordinate a range of national level and decentralised adaptation institutions and actors including government, donors, civil society etc. maximising the use of existing institutions and resources; equip itself with adequate technical advice and support for knowledge gathering, exchange and research, including through building links to the continued Nairobi Work Programme;
  - (iii) develop, adopt and regularly review and update national adaptation planning, feeding into the National Adaptation Action Strategies (see below) as well as conduct an effective monitoring and evaluation system, building on in-country experience.
- Development *and full implementation* of National Adaptation Action Strategies (NAAS), which could be integrated into the comprehensive Low Carbon Action Plans (LCAPs), with active and sustained participation of all relevant stakeholders, through the ICM process described above.
  - (i) Rather than static documents, the NAAS would be an iterative process to maintain a constantly updated compilation of sub-national adaptation plans & needs under a national goal and vision, including actions to benefit from potential technology and REDD mechanisms where they link to adaptation.
  - (ii) The NAAS would ensure the co-ordinated integration of adaptation activities into existing development processes and be linked to other processes such as disaster risk reduction and resilience building, in the interests of the sustainability of the process, while also providing for the recognising existing needs for stand-alone adaptation actions that contributing contribute to sustainable development.
  - (iii) The NAAS would ensure the co-ordinated integration of adaptation activities into existing development processes and be linked to other processes such as disaster risk reduction and resilience building, in the interests of the sustainability of the process, while also providing for the recognising existing needs for stand-alone adaptation actions that contributing contribute to sustainable development.

- (iv) Implementation of the NAAS would take place through nationally appropriate institutions and processes as identified by the ICM and the National Adaptation Trust (see below).
  - (v) Upon submission of the initial NAAS, a country would receive a “finance entitlement” by the Adaptation Board, following recommendation by the Adaptation Technical Panel. Once this entitlement has been given, the country would receive periodic grant instalments (e.g. twice a commitment period) from the adaptation funding, following periodic update and evaluation of the NAAS as guided by the ICM.
- Develop and implement regional co-operation initiatives, including establishing new, or enhancing or reforming existing, regional adaptation centres or networks. The Adaptation Board would provide adequate finance for the enhancement or establishment of such centres, networks or initiatives, following the request to do so by several countries in a given region to jointly operate such centres, networks or initiatives, inter alia through identification in their NAAS.

The Kyoto Adaptation Fund should do what it is designed to do also in the post-2012 world. While regular finance transfers in the form of periodic grant instalments as per above is more appropriate for the long-term challenge of large-scale adaptation finance, the provisions of the Kyoto Adaptation Fund may be more suitable for some national circumstances, including providing funding for stand-alone activities. As suggested above, the Adaptation Fund Board could be expanded in mandate and scope to also fulfill the role of the Adaptation Board of the Climate Facility, and would then govern both the current Kyoto Adaptation Fund and the Adaptation Window.

National Adaptation Trusts (NAT) would be set up by the recipient Party (e.g. as part of a coherent National Climate Funding Facility), possibly enhancing the scope and function of existing institutions and processes, and operated under the guidance of the ICM, ensuring participation of relevant stakeholders, particularly the most vulnerable. Its tasks would include to:

- receive regular grant instalments from the Adaptation Window for ongoing planning and implementation processes under both Pillars as per above;
- nationally disburse finance on the basis of guidance from the ICM and the NAAS;
- coordinate, as appropriate, other bilateral or multilateral funds and co-operation mechanisms that are made available outside of the UNFCCC Adaptation Action Framework;
- take fiduciary responsibility for the use of finance.

### **CLIMATE RISK INSURANCE MECHANISM (CRIM)**

A Climate Risk Insurance Mechanism should be set up under the Framework, consisting of two tiers:

- a Climate Insurance Pool (CIP) funded by the Adaptation Board to cover a pre-defined proportion of high-level, climate-related risks or disaster losses. Within the scope of the CIP insurance options for slow-onset impacts such as rising sea-levels should also be explored; and

- a Climate Insurance Assistance Facility (CIAF) to provide need-based technical support to countries and other forms of assistance, including those identified in the national strategies (see below) on regional, national or sub-national level, for setting up and operating private and public-private medium-risk insurance schemes, such as micro insurance focused on the needs of the most vulnerable communities, for middle layers of climate-related risks.

Developing countries would be eligible for benefiting from the CIM if they plan or implement risk reduction and risk management activities supported by the Adaptation Action Framework in alignment with guidance from the In-Country Co-ordination Mechanism and under the two pillars described above.

### **COMPENSATION AND REHABILITATION MECHANISM (CRM)**

The Adaptation Action Framework should also include clear provisions for establishing a process to develop modalities for an international Compensation and Rehabilitation Mechanism (CRM). The CRM should have the objective to adequately deal with loss and damage from adverse impacts of climate change that cannot be avoided through pro-active adaptation and cannot be covered by the Climate Risk Insurance Mechanism but require extreme responses for affected communities, such as resettlement and migration. The CRM would cover specifically those areas dealing with loss and damage that cannot be sufficiently dealt with through national adaptation strategies alone but require international co-operation and solutions. The CRM should also take into account the implications of failing to reach the ultimate objective of the UNFCCC, and of Parties' failure to meet their commitments under the UNFCCC and subsequent agreements such as the Kyoto Protocol.

Developing countries would be eligible for benefiting from the CRM if they plan or implement adaptation activities supported by the Adaptation Action Framework, to the degree that the opportunity to implement such actions is still available.

### **NAIROBI WORK PROGRAMME**

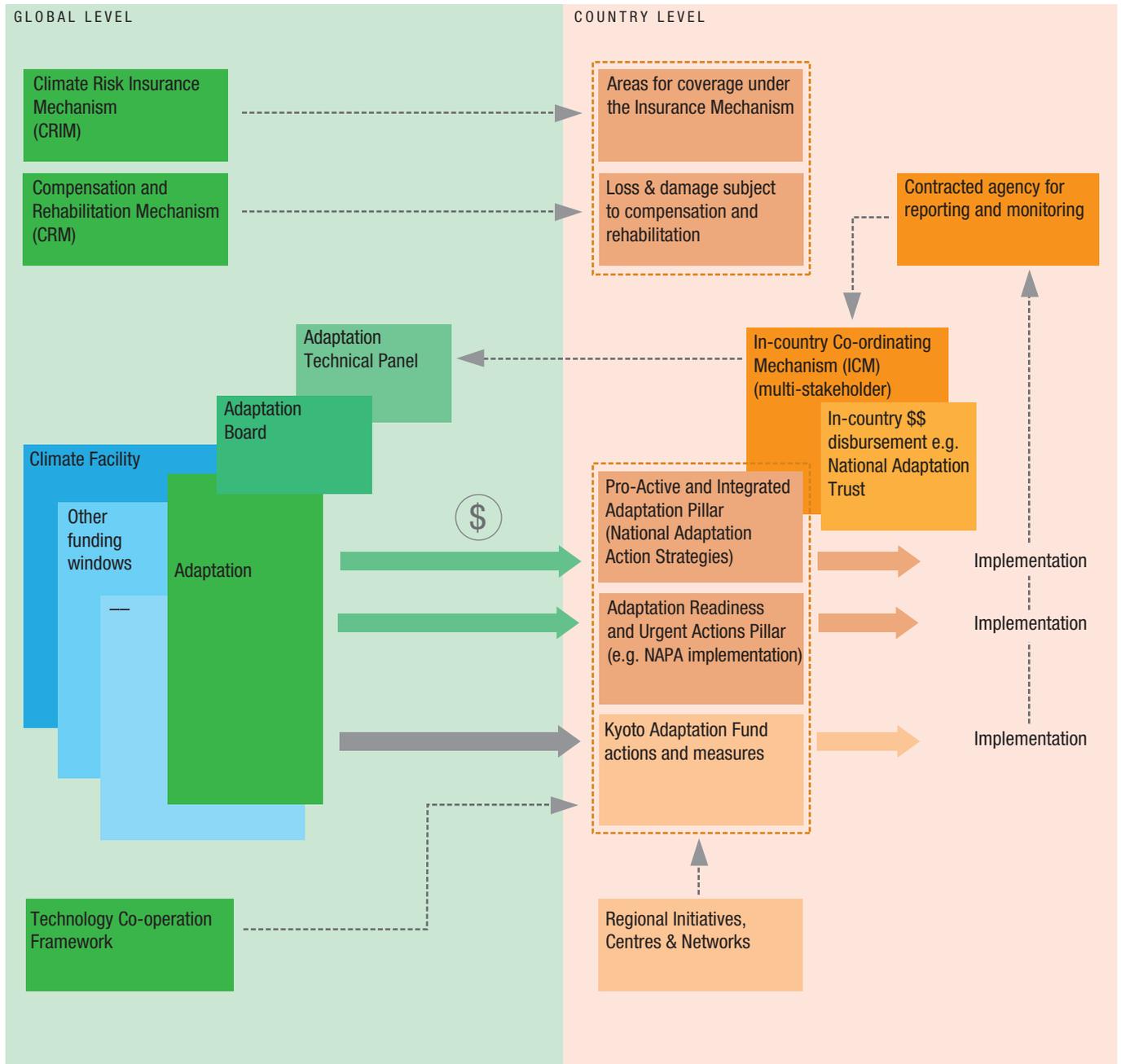
The Nairobi Work Programme on Impacts, Adaptation and Vulnerability should be continued and where necessary, advanced and scaled-up, with a view to strengthening understanding of the adaptation challenge and inform the work of the Adaptation Technical Panel and adaptation planning and implementation in developing countries as well as the work of regional networks and initiatives. This should include gathering information and statistical, gender-disaggregated data on impacts and vulnerabilities, the role and value of ecosystems in adaptation and other areas related to knowledge sharing in all sectors relevant for adaptation, including the use of traditional and low-tech solutions (ensuring prior informed consent for any traditional or indigenous knowledge use or transfer). A particular role of the continued NWP would be to make relevant information available to regional centres and initiatives.

## **ADAPTATION TECHNICAL PANEL**

The Adaptation Technical Panel would be established under the authority of the Climate Facility. Its tasks would be to, *inter alia*,

- assist in the preparation of the national strategies (see below) and recommend (to the Adaptation Board), a “financial entitlement” for the country submitting the strategy, entitling the country to receive grant instalments from the Adaptation Board for ongoing implementation;
- assist in the operation of the Climate Risk Insurance Mechanism; and
- assist in the operation of the Compensation and Rehabilitation Mechanism.
- ensure gathering and dissemination of relevant knowledge and information produced by subsequent phases of the Nairobi Work Programme (see below).
- maintain links to other technical panels e.g. on technology co-operation or mitigation;
- provide information on, and assist in the evaluation of, the ongoing work to implement adaptation under the UNFCCC, and recommend further action to the Climate Facility Executive Committee.

# Adaptation Action Framework



The proposed Adaptation Action Framework to ensure periodic grant installments to developing countries, based on in-country, transparent and participatory planning and implementation processes, focusing on the needs of the most vulnerable. Note the insurance mechanism to deal with high-level impacts such as tropical cyclones, and the rehabilitation mechanism to cover slow-onset impacts for which adaptation or insurance are unavailable.

## **Planning for the Future**

In order to achieve the objective of keeping global warming as far below 2°C as necessary while promoting low carbon, sustainable economic development, a mechanism is needed to produce long term plans and actions that clearly define the roadmap for both industrialized and developing countries to achieve low carbon development trajectories. This should be accomplished through the country-driven development of Zero Carbon Action Plans (ZCAPs) in the case of industrialized countries and Low Carbon Action Plans (LCAPs) in the case of advanced developing countries, building on the existing National Communications process.

The aims of these plans are three-fold – first, to provide a visionary long-term aim for a low carbon trajectory based on a global carbon budget; second, to identify and achieve the required timely investments for the economy-wide transformation needed to achieve low carbon sustainable development and third, in the case of developing countries, to assess, in an objective manner, what a country needs, in terms of finance, technology and capacity building, to meet the long term aim. These ZCAPs and LCAPs would fulfill the overall objectives of Article 4.1 of the Convention.

Although both industrialized and advanced developing countries would be required to prepare such respective zero and low carbon action plans, there would be clearly defined roles, responsibilities and obligations that would differ between these two groups based on the principle of common but differentiated responsibilities and respective capabilities. These are spelled out below.

It should also be explicit that the outcomes of the implementation of such strategies would differ between developing and industrialized countries:

For developing countries, nationally appropriate mitigation action should lead to the eradication of poverty, meeting the Millennium Development Goals and ensuring the right to overall sustainable development, while at the same time achieving the emissions reductions required to stay within the global carbon budget. Mitigation efforts should be pursued alongside adaptation efforts and both should be enabled by adequate and predictable international support that is measurable, reportable and verifiable and which is additional to existing ODA.

The outcome for industrialized countries' plans would be the achievement of their QERCS on a short term and an economy-wide transformation required to address unsustainable patterns of consumption and production leading to a phase out of carbon emissions by mid-century.

The new Copenhagen Climate Facility would oversee the assessment of these country-driven, bottom-up strategies. The Facility would apply an integrated approach where all the boards (i.e. Adaptation, REDD, Mitigation and Technology) would collectively facilitate zero and low carbon development.

## **Industrialized Countries' Zero Carbon Action Plans**

Industrialized countries must significantly transform their economies, shifting rapidly from a high carbon economic growth model to a zero carbon sustainable development model, in order to avoid dangerous climate change in line with the reductions needed in order to stay as far below as 2°C as necessary. To ensure that the institutions and policies are in place to achieve the short-term targets and to make the timely investments for longer-term 2030, 2040 and 2050 goals, each industrialized country will need a transformational plan, a Zero Carbon Action Plan (ZCAP), that is visionary and yet pragmatic.

This Plan should be forward looking and outline how a country will meet its dual obligations. Specifically, the Plan should chart the country's emissions pathway in line with the 2050 global goal and outline, in detail, the country's nationally appropriate mitigation commitments or actions that will ensure that it meets its QERC in the short term. It should also outline how a country proposes to meet its finance, technology and capacity building support obligations, including measures to avoid double counting offset credits. ZCAPs for industrialized countries would not only assist in setting a pathway towards a low carbon economy for each country, they would also build trust globally by demonstrating that each country is indeed making adequate short and long-term institutional and financial investments to meet its QERC. Initial ZCAPs should be provided in early 2010 and finalized in early 2011.

Industrialized country ZCAPs should be reviewed *a priori* by the Copenhagen Climate Facility. The Facility would assess whether a country's ZCAP is in line with meeting its QERC and has put in place the policies and measures necessary to follow the emissions pathway towards its long term goal. The Facility would have the mandate to review the ZCAP before the commitment period begins and recommend that the Party adopts additional measures, if needed. This review should be completed by September 2010. The Mitigation Board may refer Parties to the Facilitative Branch of the Protocol's Compliance Committee if it is not satisfied that the revised ZCAP would enable a Party to meet its QERC or long-term goals.

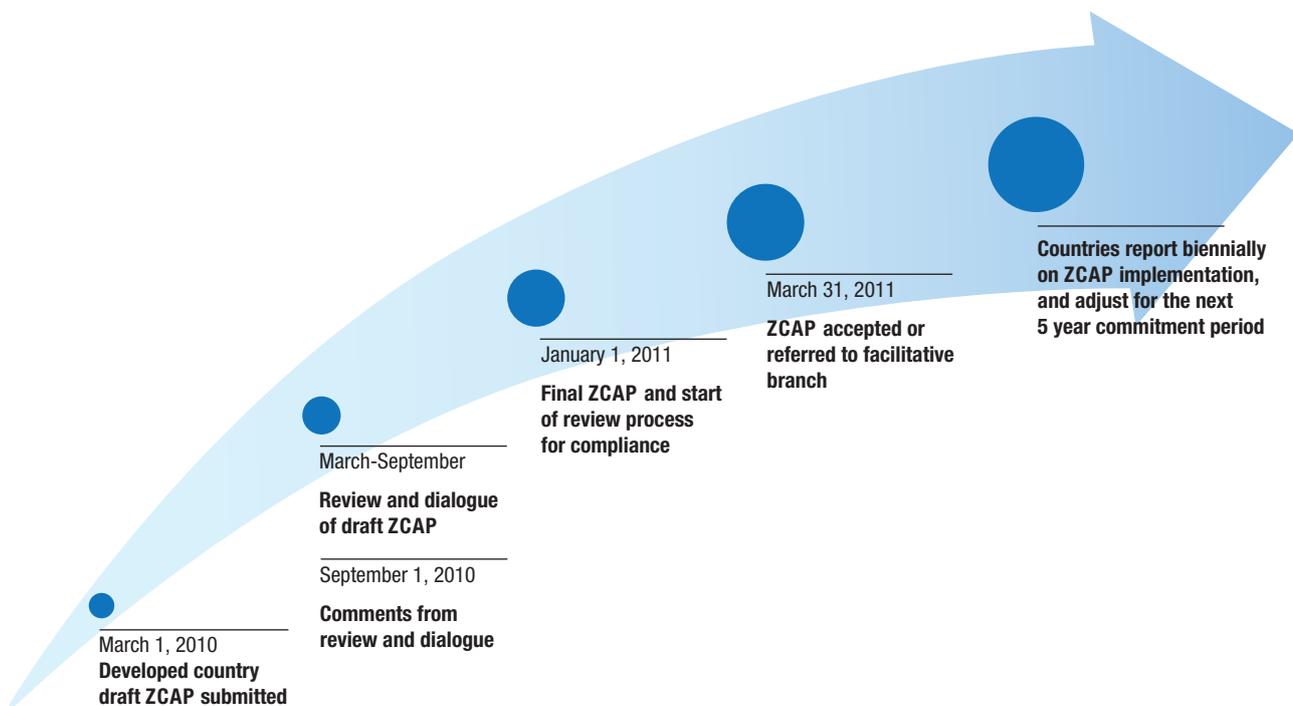
As part of a strengthened review process, based on Articles 5, 7 and 8 of the Kyoto Protocol, industrialized countries should report biennially on the implementation of their ZCAPs. This reporting should be done through the national communications process, the guidelines for which should be modified accordingly in order to make the process and national communications more informative and meaningful.

The guidelines for ZCAP preparation should be decided at COP 15. The ZCAP should include a summary of the key provisions of national laws and policies that would demonstrate the planned measures to reduce emissions and provide support for adaptation and mitigation externally. The ZCAP should also include a separately drafted forward-looking report based on a ZCAP template. This could be based on the Annex 1 national communications template, the difference being that the current national communication primarily reports on past emissions and finance and technology support, rather than quantified measures to reduce future emissions and provide future support. This new ZCAP template should include scenarios and actions out to 2050 to demonstrate how the country is specifically going to meet the targets along the way to 2050 including measures that the country has put in place to address

energy sector emissions; transportation emissions; food and residential building emissions; fuel combustion per sector; agricultural emissions; fugitive emissions from solid fuels and oil and gas; international bunker fuels; measures to reduce industrial gases and/or measures to reduce emissions from solvent and metal production and waste treatment. The ZCAP should also include technology roadmaps and RD &D plans that are commensurate with the 2050 vision for emissions reductions and planned measures for financing through to 2050.

Refer to Industrialized country Zero Carbon Action Plan (ZCAPs) timeline on the next page.

## Timeline for industrialized country Zero Carbon Action Plans (ZCAPs)



## **Industrialized Country Reporting, Review & Compliance**

The reporting and review functions would be under the auspices of the Climate Facility and the compliance matters would be dealt with under separate compliance structures, building on those originally created for the Kyoto Protocol.

### **REPORTING AND REVIEW – QERCs AND ZCAPs**

The reporting and review requirements should apply equally to all industrialized countries<sup>15</sup> and be based on strengthened Articles 5, 7 and 8 of the Kyoto Protocol therefore including strengthened national systems, national registries, annual GHG inventories, review and international verification processes.

The strengthened provisions should include, *inter alia*:<sup>16</sup>

- 1.) Biennial updates of climate related policies, emissions projections and fulfillment of support obligations, as part of an enhanced national communication reporting; and
- 2.) Enhancing the consistency among reports through clear and precise indicators and more elaborate reporting templates.

Initial ZCAPs should be reviewed by the Mitigation Board of the CCF, while the annual GHG inventory reporting and biennial ZCAP implementation reporting (through the national communications) should be reviewed by expert review teams. Both entities should be able to refer a country to the Compliance Committee through questions of concern (Mitigation Board) and questions of implementation (ERTs).

### **REPORTING AND REVIEW: SUPPORT OBLIGATIONS**

Industrialized countries should report biennially on their financial, technology and capacity building support obligations, based on a set of performance indicators. These indicators should be developed based on a set of principles to ensure that the provision of support is adequate, predictable, automatic and additional. This information should be included in the Action and Support Registry housed with the Copenhagen Climate Facility and be reviewed by expert review teams as per the ZCAP implementation review noted above.

Experience exists for registering, monitoring and reporting of international financial flows with the UNFCCC and the OECD DAC system, from which the Copenhagen Agreement can learn. For bilateral or multilateral initiatives outside of the UNFCCC to count towards obligations, they should meet certain criteria established by the CMCP.<sup>17</sup> Limiting the review of the expert review teams to the transparency, completeness and timeliness of the information would not fulfill the requirement that support be MRV'd. The current reporting requirements should be changed so as to ensure no double counting of support obligations.

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<sup>15</sup> Including NICs and their QELCs.

<sup>16</sup> For more detail on enhancements and changes needed, see corresponding articles of the legal text.

<sup>17</sup> Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol.

## COMPLIANCE

The current early warning system for non-compliance and those provisions available to the Enforcement Branch to deter non-compliance are insufficient. The scope for review and the ability to forward questions to the Compliance Committee should be expanded, while additional consequences should be available in order to provide adequate incentives for Parties to comply.

To begin with, the Mitigation Board should be able to forward ‘questions of concern’ to the Facilitative Branch if it is not satisfied that a proposed ZCAP (after a round of consultation and revision with the Party concerned) would enable a Party to meet its QERC, support obligations or long-term goals. Furthermore, an automatic referral to the Facilitative Branch should be triggered, by expert review teams, as soon as a country’s GHG inventory or financial reporting shows that the country is 15 % off the trajectory necessary to meet its targets or support obligations. A country would be required to explain to the Facilitative Branch how it intends to be in compliance at the end of the commitment period. Other provisions for early warning of non-compliance should also be included in the Copenhagen Agreement.

The consequences available to both the Facilitative and Enforcement Branches should be expanded. The Facilitative Branch should be able to, *inter alia*:

- issue statements of concern before the true-up period;
- require greater review of ZCAP implementation; and
- oblige Parties for whom it has little confidence that their ZCAPs will enable them to meet their dual obligations to post a bond towards possible non-compliance.

## A BOND INSURANCE AGAINST NON-COMPLIANCE

The bond should represent a portion of the penalties a Party would be required to pay in the case of non-compliance. In essence, a Party would be required to pre-pay, if it looked like the Party could be in non-compliance, thus acting as another incentive to ultimately achieve compliance. At the end of a commitment period, the bond would be returned to a Party in the case of compliance or forfeited in the case of non-compliance. The interest on the bond would not be returned to the Party and instead transferred to the *Copenhagen Climate Facility*. The loss of the interest is the penalty for poor planning and slow action that risked non-compliance in the first place.

If a country is found to be out of compliance with its QERC or support obligations at the end of a commitment period, financial penalties should be levied by the Enforcement Branch. All financial penalties should be paid into the Copenhagen Climate Facility and support adaptation activities. It is likely that the dispute settlement procedures of the agreement will need to be elaborated.

## **Developing Countries' NAMAs & Low Carbon Action Plans**

Developing countries should develop long-term Low Carbon Action Plans (LCAPs): visionary Plans that provide a roadmap and outline a trajectory for the country's pathway to a low carbon economy and clearly link development and climate goals together to achieve sustainable development. These Plans should be developed through a bottom-up country-driven process.

### **PREPARATION OF LCAPs AND NAMAS**

To make the development of these LCAPs less onerous in the short term they should build upon national plans already in place in many countries and provide an integrated framework where a country's Nationally Appropriate Mitigation Actions (NAMAs) can be pulled together in a coherent way. LCAPs will make a clear link between actions and expected emission reductions, as well as the requirements for financial, technological (including R&D) and capacity building support. These NAMAs would form the essential building blocks of a LCAP and together its cumulative impact should result in the long-term objective of a low carbon economy as well as staying within the atmospheric limitations set by the well below 2°C danger limit. The mitigation efforts together with the adaptation efforts all contribute towards the overall LCAP.

LCAPs should include an indication of the link between NAMAs and the country's overall level of ambition. The Mitigation Board should also be mandated to assess whether the proposed NAMAs would indeed contribute adequately to meeting the overarching developing country group aim. Should the proposed NAMAs not contribute adequately to the overall level of ambition, the Mitigation Board would enter into a dialogue with countries to consider additional NAMAs and/or MRV support, as required. The overall level of ambition would also be assessed during the implementation phase, the review of which is outlined below in the section on NAMAs, Registry, MRV.

The LCAPs should aim to address the top emitting sectors in the country and outline the set of NAMAs that will contribute to the overall achievement of the low carbon trajectory for the country. The Plans would thus include further information about sectoral NAMAs as a whole and have a longer timeframe up to 2030 and 2050. Given that LCAPs are intended to be long-term roadmaps towards a low carbon economy, they should not only focus on energy but also on land use issues including REDD, transportation and the built-environment, amongst others.

The LCAPs would include NAMAs which countries already have in place or are being planned and implemented without external support (unilateral NAMAs); NAMAs that could be implemented if MRV'd support was provided to cover incremental costs (supported NAMAs) and NAMAs that could be incentivized by carbon credits (credited mitigation actions, CMAs). The finance for CMAs provided through carbon credits that count against QERCs of industrialized countries cannot be double-counted as fulfilling industrialized countries' MRV'd support obligations.

To co-ordinate the preparation and implementation of their LCAPs, countries should establish an In-Country Coordinating Mechanism (ICM) (see Governance and

Institutions chapter above). To ensure a coherent approach it would make sense for the Coordinating Mechanism to oversee both mitigation and adaptation. The cost of preparing LCAPs should be covered on an agreed full costs basis by industrialized countries. The necessary funding should be disbursed through expedited procedures based on a COP decision at Copenhagen.

**Industrialized countries should commit considerable funds at Copenhagen to support early implementation of NAMAs (“NAMAs implemented early”/ “pilot NAMAs”) and preparations of LCAPs, starting from 2010, so as help build confidence in the new mechanisms, to build trust as well as seize cost-effective opportunities to reduce emissions.**

Those countries, particularly the advanced developing countries, that already have LCAP-like plans in place or have the capacity to develop such plans more rapidly, should be required to submit a first iteration of their LCAP by June 2010. The LCAP should include the proposed NAMAs for the 2013–2017 commitment period and the projected impact on national emissions in relation to the current baseline. The June 2010 timeframe is critical to ensure that developing countries can secure the MRV support they need to begin early implementation of enhanced actions, above and beyond their unilateral NAMAs.

Other developing countries should also be encouraged to submit LCAPs and/or NAMAs based on their respective capacities and should be provided with the necessary support. This includes Least Developed Countries and Small Island Developing States which, while not contributing significantly to global emissions, have already shown leadership in moving towards a low carbon economy.

#### ***Assessment of NAMAs and matching with MRV support***

Developing countries would submit NAMAs to the Copenhagen Climate Facility. The proposed NAMAs would then be assessed by an appropriate technical panel to consider the underpinning assumptions and advise on feasibility. Successful completion of this technical assessment process would trigger a recommendation for support by the Mitigation Board or REDD Board. The Technology Board and its technical panels would provide advice and support on technology related issues. These Boards would play the key role in prioritizing the provision of support for NAMAs based on objective criteria agreed by the CMCP. The criteria would ensure that developing countries with lower capacity (e.g. LDCs) receive proportionally more or full support for their NAMAs than more advanced developing countries.

NAMAs may take various forms, including SD-PAMS, sectoral no-lose targets, REDD activities, and others. As a general rule countries should provide the following information:

- details on the exact nature and status of NAMAs;
- expected emissions reductions from unilateral NAMAs and when those reductions are expected to be achieved (e.g., 2015, 2020, etc.);
- barriers (need for capacity building, etc.) to achieving the expected emissions reductions from unilateral NAMAs;
- opportunities to go further than unilateral NAMAs, including detailed financial, technology and capacity building needs linked to each NAMA;

- proposed indicators to measure the success of the NAMAs;
- proposed mechanisms for receiving support for the supported NAMAs (e.g., grants, joint R&D, guarantees, loans etc.); and
- identification of the role foreseen for crediting mechanisms.<sup>18</sup>

Baselines (which a country would provide) for each proposed NAMA as well as indicator(s) by which the success of the action would be measured should be jointly agreed by the Mitigation Board and the country concerned. Actions could be reviewed based on activities or outcomes (i.e. emissions reductions). For instance, it may be more challenging to measure emissions reductions associated with certain SD PAMs and thus a review based on the activities implemented may be a better approach. For some sectoral NAMAs, an outcomes/emissions reduction basis may be easier or more appropriate. Whether actions should be reviewed on an activities or outcome basis should be decided *a priori* when deciding on the level of support to be provided.

If one of the mitigation actions includes a carbon market link, then classified as credited mitigation actions (CMAs), such as a sectoral crediting mechanism, the baseline would be negotiated based on methodologies provided by the Carbon Market Regulatory Agency (see below).

Once the NAMA has been approved and matched with support by the Mitigation Board, it would be entered into the Action and Support Registry. The Registry would record the NAMA itself, the associated international MRV support, and the emissions reduced relative to a baseline.

## **Measurement, Reporting and Verification of NAMAs**

### ***National Systems for Measurement of Emissions***

Those developing countries required to do LCAPs should also put in place a national system to estimate GHG emissions by sources and removals by sinks. The creation of such a system would need to be supported by industrialized countries. The national measurement process should include the following provisions:

- collection and processing of activity data and emissions factors;
- quantitative assessment of the uncertainties associated with emission estimates;
- development and operation of quality control and quality assessment procedures; and
- archiving of relevant material in a single location.

### ***Reporting of GHG Inventories***

Those developing countries required to submit LCAPs should be required to submit biennial GHG inventories and full time series of emissions in the 2013-2017 commitment period and annually thereafter. Industrialized countries should support the creation and maintenance of such inventories. The purpose of this biennial or

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<sup>18</sup> As noted above, actions supported through carbon credits should not be accounted for the Gt CO<sub>2</sub>e aim of developing countries, as they are counted against industrialized country targets. It is the prerogative of developing countries to identify in their LCAPs what role crediting mechanisms should play in their nationally appropriate mitigation actions.

annual inventory submission is to build the capacity of those developing countries to report robustly and to build trust amongst all Parties. The IPCC Guidelines and Good Practice Guidance should inform the guidelines developed for these inventories and efforts should be made to streamline them with other reporting requirements. Inventories should be reviewed by expert review teams. If questions of implementation arise, only the Facilitative Branch should be involved.

All other developing country parties, except for the LDCs, should submit GHG inventories every 3 years, with increased frequency over time. These should be subject to a review.

### ***Reporting on NAMAs***

In addition to submitting GHG inventories, supplementary information should be provided in the communications on supported NAMAs and LCAPs, which have been planned or implemented. Unilateral NAMAs should be reported so that the activities of developing countries can be fully recognised. The effect of unilateral NAMAs on emissions should be quantified. An independent verification, using international standards and supported by an international expert review team (jointly agreed on by the country and the ExComm) should be undertaken domestically. The support of an expert review team in the verification of unilateral NAMAs is critical for the overall integrity of the system and will assist with the transfer of technical capacity and promote the philosophy of learning by doing.

For supported NAMAs the emission reductions relative to baseline should, when possible, be measured by the Party implementing the mitigation action in tons of carbon dioxide equivalent, according to multilaterally agreed guidelines and methodologies.

Guidelines for reporting on supported NAMAs should build upon those for Non-Annex I National Communications and be supported by an enhanced Consultative Group of Experts on National Communications from Parties not included in Annex I.

The indicators to measure success of registered NAMAs (either on an activities or emissions outcome basis) should be agreed between the Board and the country concerned when financial, capacity and technology support arrangements are made. Countries should report on their NAMAs and progress against their LCAPs every 2 years via their National Communications.

### ***Expert review of inventories and NAMAs***

National Communications, together with updates on GHG inventories, should be reviewed by an expert review team using a separate set of guidelines from those used for industrialized countries. The expert review team should then prepare a review report to the CMCP, assessing implementation of each Party's NAMAs and identifying any potential problems in, and factors influencing, their fulfillment.

Significant resources should be made available to ensure that expert review teams are in a position to complete their reviews in a thorough and timely manner. It is important that resources are allocated to build the capacity of developing country experts to participate in these reviews. Detailed guidelines should be elaborated to strengthen the review of NAMAs and national communications more generally.

Expert review team members should be provided with the space to express minority views related to the review process.

***Role of Facilitative Branch in addressing problems***

If a discrepancy exists between the activities implemented and the anticipated outcomes<sup>19</sup>, questions should be referred to the Facilitative Branch of the Copenhagen Protocol and a dialogue should be initiated with the country concerned in order to facilitate it in the achievement of its NAMAs. The Facilitative Branch should make every effort to resolve any discrepancies amicably, with full consideration given to the capacity constraints of many developing countries. Technical and financial advice including technology transfer and capacity-building should be made available on request.

If discrepancies cannot be resolved, the Facilitative Branch may require the country concerned to develop a remediation plan to address the discrepancies, where the specific challenges in implementation are outlined. This extensive and thorough, but expedited, dialogue should occur over no more than a 6 month time period. If all attempts to resolve the discrepancies have been exhausted and the country does not show a deliberate attempt to implement its supported NAMAs at the agreed level, the Facilitative Branch could decide to discontinue in whole or in part the financial support of other activities under the LCAP.

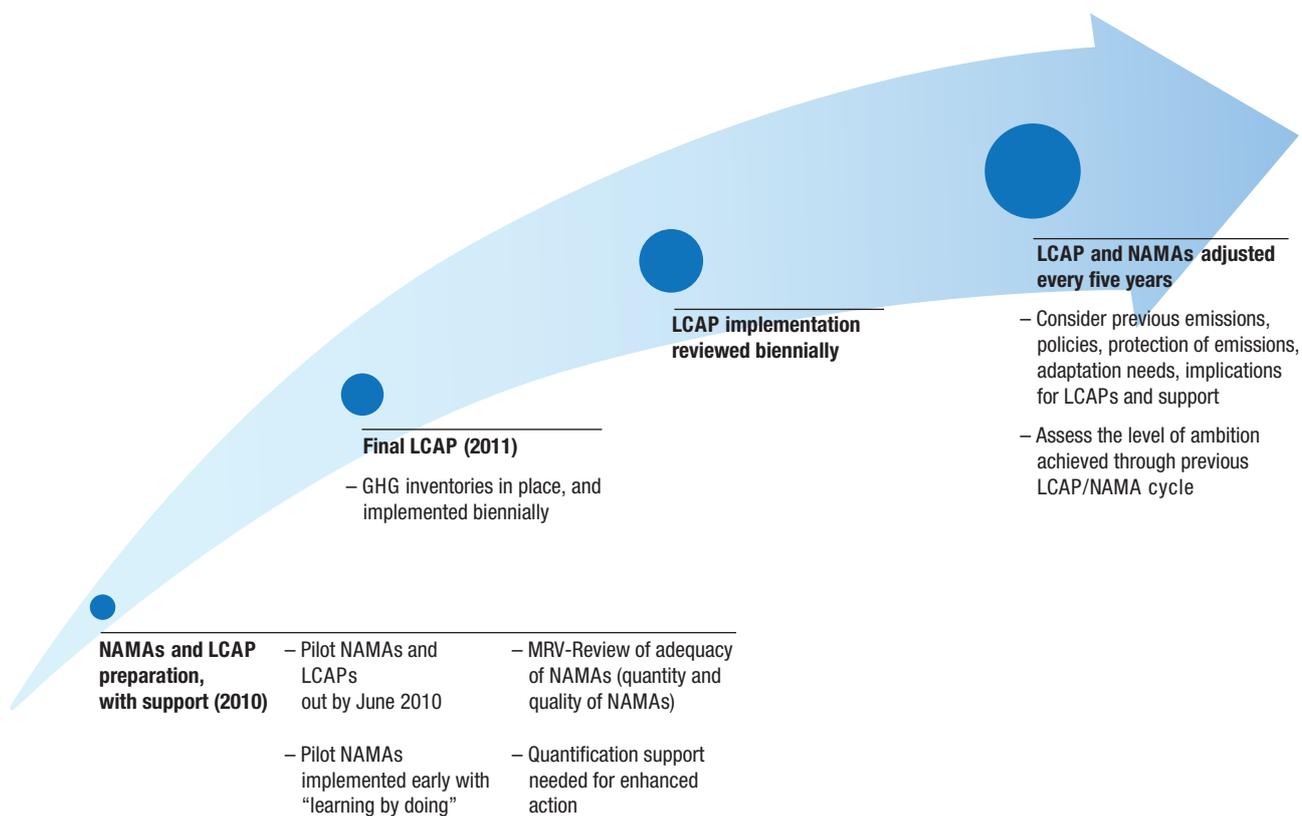
At the appropriate time, the expert review teams should consider whether developing countries, as a group, have staid within developing country aggregate carbon budget. If the aim has not been met, the Facilitative Branch may issue a statement expressing its concern. **Under no circumstances may matters relating to developing countries be referred to the Enforcement Branch.**

Refer to Developing country NAMAs and Low Carbon Action Plans (LCAPs) on the next page.

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<sup>19</sup> If discrepancies exist due to lack of MRV support this gets referred and taken care of by the Industrialized country review, reporting and compliance system.

## Timeline for developing country NAMAs and Low Carbon Action Plans (LCAPs)



## **Technology Cooperation**

In order to achieve the transition to a worldwide low-carbon development trajectory and to build up climate resilience, in particular in the most vulnerable countries and regions, a global revolution in technology and technology cooperation is needed that will accelerate the pace of innovation, increase the scale of demonstration and deployment, and ensure diffusion of and affordable access to climate friendly technologies in all countries.

Support for technology cooperation, transfer and diffusion needs to be rapidly expanded in order to meet the mitigation and adaptation challenges posed by climate change, as developing the next generation of low-carbon technologies will be crucial to meeting the shared vision and staying within the carbon budget. A robust and comprehensive approach is needed to correct market failures and provide support along the entire technology innovation chain, leveraging public and private finance to spur innovation and technology cooperation and transfer. A robust and objective driven technology mechanism is needed, the implementation of which would be coordinated by the Copenhagen Climate Facility and its Technology Board in close cooperation with existing technology related structures under and outside the UNFCCC. To address the need for rapid technology development and diffusion in the near-term a Technology Development Objective should be defined.

### **SETTING OF TECHNOLOGY DEVELOPMENT OBJECTIVES**

The Technology Development Objective will help to guide and drive Technology Action Programmes and should include:

- a) Increasing financing for mitigation and adaptation related research, development and demonstration to at least double current levels by 2012 and four times current levels by 2020, with a key focus on bilateral and multilateral cooperative initiatives;
- b) Obtaining a global average of at least two thirds of the world's primary energy demand from renewable energy sources by 2050, with the mid-term goal of achieving at least 20 percent by 2020;
- c) Improving average energy intensity of the global economy by 2.5% per year until 2050; and
- d) Securing access to modern energy services for all people by 2025, without locking them into a high GHG intensity development path.

### **TECHNOLOGY BOARD AND TECHNOLOGY ACTION PROGRAMMES**

A Technology Board should be established as part of the Copenhagen Climate Facility, made up of technical experts from government, business, research institutes and NGOs, serving in an independent capacity. The facility would have technology finance at its disposal. The Board would be responsible for developing a set of Technology Action Programmes (TAPs) for key adaptation and mitigation technologies, informed by existing international and national roadmaps, and bringing that know-how into the LCAPs discussion.

These Action Programmes should support the Technology Objective and draw from the full range of public and private mechanisms as well as bilateral and multilateral efforts.

The bilateral and multilateral activities on climate-friendly technology agreed outside the UNFCCC framework could only count towards industrialized country MRV support obligations, up to a certain limit, if they are in compliance with CMCP established criteria and have been reviewed and registered by the Copenhagen Climate Facility (see the provisions on Climate Facility mechanism given above). The Technology Board should, for instance, draw up guidelines for joint ventures, IPR agreements and tendering processes.

No Technology Action Programmes should be developed for unsustainable technologies, such as nuclear energy.

### **TECHNOLOGY ACTION PROGRAMMES AND LCAPs AND ZCAPs**

Technology Action Programmes (TAPs) are top-down and global, Low Carbon Action Plans (LCAPs) and Zero Carbon Action Plans (ZCAPs) are bottom-up and national; when read together the three should ensure that the world is on track to meet the global carbon budget.

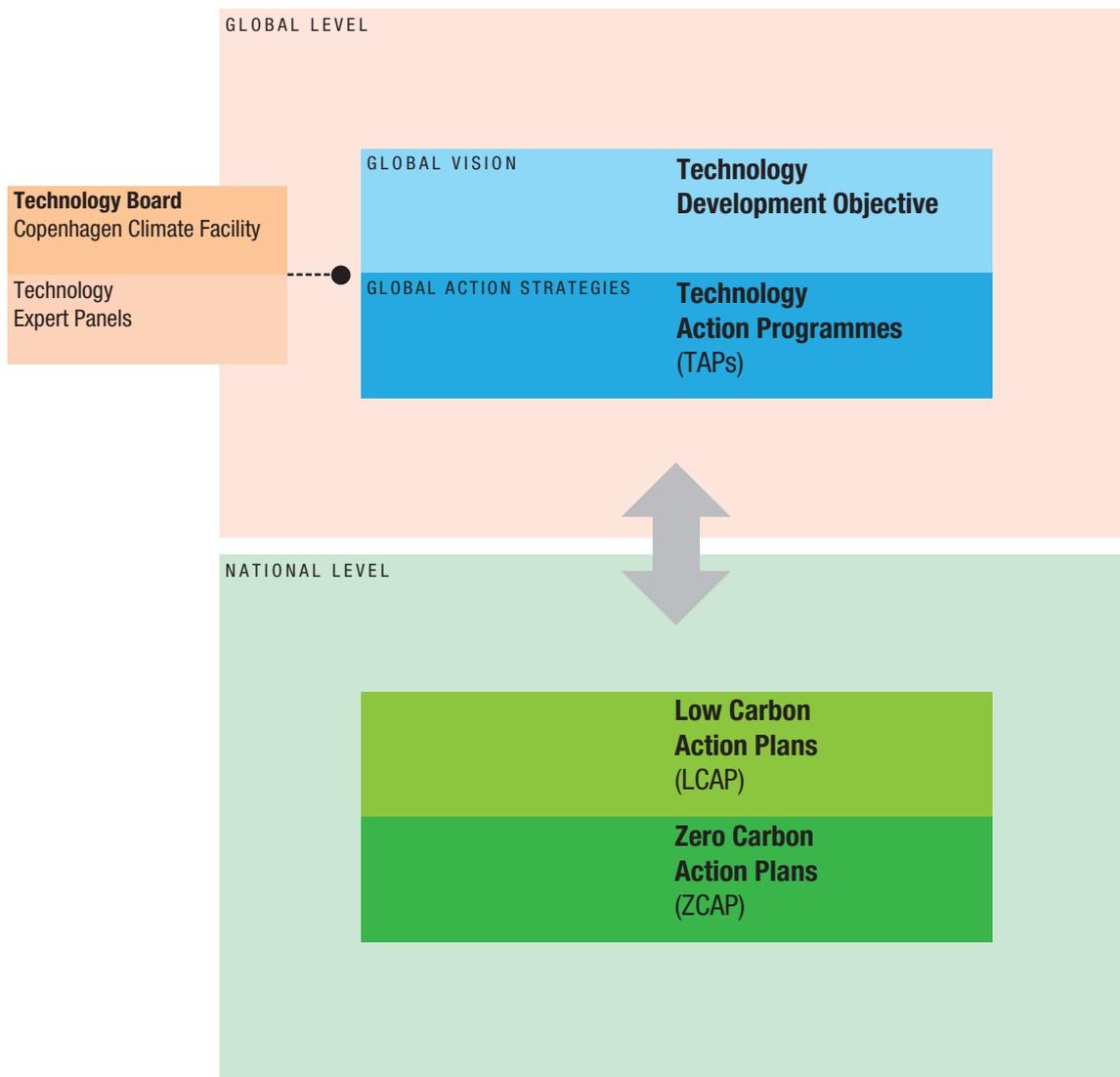
The Technology Board would provide advice to the Adaptation and Mitigation Boards on the technology diffusion and RD&D strategy of the concerned Party. In addition the Technology Board should review progress towards global technology goals for LCAPs, ZCAPs and adaptation and have decision making authority over the technology funding. The Technology Board should also facilitate the creation of regional centers for innovation and diffusion. As constituted in the Copenhagen Climate Facility, Technology Expert Panels would provide technical guidance to all of the Climate Facility Boards, as well as to the In-Country Coordinating Mechanisms for their role in coordinating the implementation of global Technology Action Programmes, with a view to achieving the Technology Development Objectives.

### **INTELLECTUAL PROPERTY RIGHTS**

Where intellectual property rights prove to be a barrier to technology deployment, diffusion and transfer, a clear framework for using existing mechanisms, based on the approach of 'protect and share', should be developed to reduce and eliminate these barriers generally. Individual Technology Action Programmes should also identify and address IPR barriers for each specific technology covered.

Refer to the "Technology Cooperation Mechanism" on the next page.

## Technology Cooperation Mechanism



To be developed by a **Technology Board** at the Copenhagen Climate Facility, a **Technology Development Objective** should be defined to address the global need for rapid development and diffusion of climate friendly technologies in the near-term for the transition of a low carbon climate resilient development path; and a set of **Technology Action Programmes (TAPs)** should be developed by the Technology Board as concrete global strategies stemmed from a full range of resources and efforts at national and international levels to flesh out the Objective; at national level, countries' **LCAPs and ZCAPs** should be assisted by the Technology Development Objective and the Technology Action Programmes in meeting their goals.

## **Finance**

It is clear that significant financial resources will be required to meet the ambitious agreement outlined herein, particularly with respect to adaptation. To reach a global emission peak within 2013-2017 and get to a steadily declining emissions trend will require a major shift in investment and significant additional public finance. These resources should represent new and additional money, a substantial portion of which should be channeled through the Copenhagen Climate Facility of the Copenhagen Protocol. These resources should be used – particularly with respect to mitigation – to catalyze significant private investment. The Copenhagen Agreement should support efforts by, and seek to further leverage, the private sector by, *inter alia*, putting a price on carbon to guide investment choices and through targeted technology cooperation.

### **SCALE OF FUNDING COMMITMENT & WHO PAYS**

These significant MRV financial resources would be used to implement mitigation measures, support technological cooperation and spur innovation, and adequate adaptation to the impacts of climate change in developing countries. Overall industrialized countries should provide at least 160 billion US\$<sup>20</sup> per year for the 2013-2017 commitment period. Each industrialized country should assume responsibility for an assessed amount of this 160 billion US\$ financial requirement as part of its binding national obligation for the 2013-2017 commitment period. Assessed amounts should be based on countries' responsibility and capacity according to criteria to be agreed at Copenhagen. This means that Annex II countries will have to carry responsibility for a majority of the overall obligation.

### **MECHANISM FOR RAISING FINANCE: AAU AUCTIONING**

The primary source of revenue should be through the auctioning of roughly [10%<sup>21</sup>]<sup>22</sup> of the emissions value of the industrialized countries' targets,<sup>23</sup> with additional financing from international bunkers levies and other means, e.g. national auctioning that meets MRV criteria. If auctioning does not enable an industrialized country to meet its assessed amount fully, the shortfall should be covered by MRV stable, consistent and predictable financial resources.

### **SCALE OF FUNDING FOR MITIGATION, ADAPTATION, REDD, AND TECHNOLOGY**

The vast majority of the 160 billion US\$<sup>24</sup> per year should be deposited in the Copenhagen Climate Facility. The Facility's four Boards, for mitigation, technology,

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<sup>20</sup> This is a conservative estimate.

<sup>21</sup> The banking rules are relevant for determining the amount of emission allocations that should be auctioned. The price of auctioned AAUs could be significantly reduced should countries decide to purchase the aggregate potential surplus of AAUs from the first commitment period (around 7.4 billion AAUs or about 4%).

<sup>22</sup> The percentage is linked to the overall developed countries provision under certain market price assumptions (see above).

<sup>23</sup> The default would be to have this specific portion generated via auctioning of a country's assigned amount units. However, a country could opt out of this requirement if it dedicates the equivalent value through a specific "set aside" of allowance value from its domestic emissions trading system.

<sup>24</sup> The sources give figures in different currencies, we have used a May 09 exchange rate to calculate the overall figure in USD. 160 US\$ equals €115.

adaptation (including a multilateral insurance mechanism) and REDD. Resources should be apportioned as follows:

- 56 billion US\$ per year for adaptation activities<sup>25</sup>;
- plus 7 billion US\$ per year for a multilateral insurance mechanism<sup>26</sup>;
- 42 billion US\$ per year for REDD<sup>27</sup>; and
- 55 billion US\$ for mitigation and technology per year.<sup>28</sup>

We expect a higher number will be needed over time post-2017, in particular for energy mitigation and technology. In case of adaptation the number would greatly increase if emissions are not cut fast and far enough.

In addition to these resources, industrialized countries should contribute to the research, development and demonstration pillar of the Technology Board as part of their commitments to the MRV support obligation and a contribution to the Technology Development Objective in terms of to at least double the current spending on research, development and deployment of climate friendly technologies by 2012 and then quadruple the RD&D spending by 2020.<sup>29</sup>

Industrialized countries should also support the new reporting requirements of developing countries on an agreed full cost basis.

#### **CRITERIA FOR FINANCE OUTSIDE OF THE UNFCCC**

The CMCP should decide on a set of criteria defining ‘measurable, reportable and verifiable’ that can be applied to bilateral financing, technology transfer and capacity building efforts. While only a limited portion of an industrialized country’s commitments could be met through bilateral efforts, the creation of such criteria would leverage additional resources towards NAMAs, REDD, technology and adaptation efforts. For example, finance outside of the Facility can be used for LCAP development and capacity building and technical support for the development of GHG inventories.

#### **REDD**

The vast majority of gross emissions from deforestation and forest degradation in developing countries should be eliminated by 2020 with a view to eliminating nearly all human induced forest emissions by 2030, in a manner that promotes the protection of biodiversity and fully respects the rights of local and indigenous peoples. Emissions reductions from reduced deforestation and forest degradation must be

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<sup>25</sup> Based on "Oxfam (2007) 'Adapting to Climate Change: What's Needed in Poor Countries, and Who Should Pay', Oxfam Briefing Paper No. 104, Oxford: Oxfam International." This is an "at least" number that will greatly increase if emissions are not cut fast and far enough.

<sup>26</sup> Based on background provided by the Munich Climate Insurance Initiative, MCII (2009): [http://www.climate-insurance.org/front\\_content.php?idcat=143](http://www.climate-insurance.org/front_content.php?idcat=143) (05.05.2009).

<sup>27</sup> This figure is in the upper end of the range of estimates of four recent reviews (European Commission 2008, Eliasch 2008, Boucher 2008, Meridian Institute, 2009) and would be equal to 30 bln euros.

<sup>28</sup> Preliminary estimate based on the EU Commission Staff Working Document, Part 1, page 74 estimates '48 billion EURO [66 billion US\$] for developing countries mitigation costs by 2020'. As the ability for finance absorption in many developing countries will increase over time we expect a higher number after 2017.

<sup>29</sup> Sources: Global public funding for energy related R&D and demonstration should double (US\$ 20 bn per year) by 2012 and quadruple (US\$ 40 bn per year) by 2020 (European Commission, 2009). European Commission (2009). Towards a comprehensive climate change agreement in Copenhagen, COM (2009) 39/3).

additional to the envisaged deep domestic emissions reductions and must not create disincentives to the necessary transformation of energy and industrial sectors towards a future low carbon economy.

A REDD mechanism should be established, governed by a REDD Board. Developing countries should develop National Action Plans on REDD, in line with their National Biodiversity Strategies and Action Plans and integrated into their LCAPs. The REDD NAMAs that are described in this plan should be registered with the Action and Support Registry described above. Countries should receive financial support for:

- a) national-level emissions reductions against a scientifically rigorous baseline;
- b) the implementation of, and measurable progress towards meeting, objectives identified in the National Action Plans on REDD, including, *inter alia*, preventing increases in future emissions in countries with low historic rates but with forests at significant risk; and
- c) capacity building efforts now, up to and beyond 2012, to measure, monitor, report and verify reductions in GHG emissions or, on a transitional basis, the deforested and forest degraded area.

The financial incentives provided for emissions reductions achieved should be determined according to how robust the reductions are likely to be, given Parties' differing capacities, with the majority of financing provided based upon performance. The stringency of reporting requirements should be a function of a Party's technical capacity. The liability of Parties for subsequent increases in their emissions should be proportional to their technical capacity.

Based on the emissions reported and after approaches, such as a discount rate, have been applied to account for uncertainties in the measuring and reporting, incentives should be provided based upon the emissions reductions achieved. These emissions reductions should be financed by industrialized countries as part of their binding obligations under the Copenhagen Agreement. Significant capacity building and experience with the REDD activities is needed before countries are likely to be able to participate in a REDD mechanism. The vast majority of funding for REDD during the 2013-2017 period should come from auctioning revenues.

Governments must ensure that any REDD mechanism is consistent with international human rights agreements and declarations, with particular attention to the UN Declaration on the Rights of Indigenous Peoples and ILO Convention 169. Mandatory standards to protect the rights of indigenous peoples and local communities and biological diversity should be developed. An Ombudsman position should be created to monitor their enforcement. Support should be made available to assist countries in meeting these standards, as required. Representatives from indigenous peoples, local communities, civil society and the scientific community should be included on the REDD Board.

The Intergovernmental Panel on Climate Change guidelines for inventories should inform the development of rigorous standards to measure, report and verify emissions reductions. In accounting for emissions reductions, incentives should be provided for reductions of gross emissions based upon a national reference level derived from historical and scientifically rigorous reference periods and other factors to ensure the

additionality of the emissions reductions. The development of these measurements should be based on such data as forest characteristics definitions in the Global Forest Resources Assessment of the Food and Agriculture Organization and proper biome-based definitions for forests.

### **International Bunkers**

Emissions from international aviation and shipping are substantial and rapidly-growing sources of emissions. Two recent, authoritative studies give projections for the global aviation and marine sectors of 1.8 – 2.6 GtCO<sub>2</sub> and 2.7 – 3.6 GtCO<sub>2</sub> respectively in 2050 (with no additional weighting to account for the non-CO<sub>2</sub> effects of aviation, which approximately double its impact). These numbers give cause for alarm in the context of a global carbon budget of only 7.2 Gt CO<sub>2</sub>e in 2050. In both sectors the portion arising from international transport, which is so far totally unregulated, represents the majority of emissions.

Emissions from international aviation and shipping should be brought within industrialised countries' national emissions limits by an amendment to Annex A of the Kyoto Protocol, on the basis of on fuels sold within the Annex-I countries. This is necessary to ensure comprehensive accounting of emissions from industrialised countries.

However, in order to minimize leakage, policies to reduce emissions (as opposed to accounting measures) should be global or near-global, with compensation mechanisms designed to minimize or prevent any impact on those Parties that may be adversely affected. The principle of common but differentiated responsibilities can still be respected if revenues from levies or auctioning (raised in large part, ultimately, from consumers in industrialized countries) are distributed in developing countries to support mitigation and adaptation activities.

### **Carbon Market Regulatory Authority**

In order to provide credibility for the carbon market and ensure it maintains high quality standards, a new Carbon Market Regulatory Authority should be established. The Authority would be supervised by and accountable to the CMCP. This Authority should have full oversight of preparations for Parties to participate in the carbon market, whether on the national, sectoral or project level. It would thus set and monitor standards and guidelines. It should therefore have the mandate to assess the requisite systems and to require changes in methodologies if needed.

The Authority should be made up of carbon market experts, not government representatives and have a fair amount of independence to operate. The Authority should also be empowered with a strong capacity building function to assist countries in developing the institutional and technical capacity and the know-how to participate in the carbon market if they so choose.

The Authority will report to the CMCP annually. The Authority will also oversee all crediting activity, including issuing credits. However, the adequacy of the ambition

level of a crediting plan will be assessed by the Mitigation Board and approved by the CMCP.

Preparations for establishing the Carbon Market Regulatory Authority should start immediately, so that countries who wish to participate in carbon markets on a sectoral or national level can start the necessary methodological and institutional preparations. This is likely to require significant institutional capacity building and technical assistance. The Carbon Market Regulatory Authority should build on the experiences, but improve and learn from, made with the CDM Executive Board.

### **Credited Mitigation Actions and Clean Development Mechanism**

The Clean Development Mechanism (CDM) needs to be fundamentally restructured as a part of the Copenhagen agreement to better serve the sustainable development needs of the host country. Project-based activities should be limited to Least Developed Countries and other developing countries with little capacity to act. Even in those cases, strong support for capacity building should be prioritized to help countries quickly adopt sectoral, cross-sectoral and national approaches that help them move towards low-carbon development pathways.

For advanced developing countries the Copenhagen agreement should provide new carbon market mechanisms (credited mitigation actions, CMAs) that incentivize long-term low-carbon development planning on a sectoral or economy-wide level and build on lessons learned with CDM. Sectoral or national crediting mechanisms must be implemented in a way that ensures additionality and avoids double counting of emissions. Developing country actions that lead to issued carbon credits used to offset industrialized country emissions cannot be counted towards developing countries' mitigation aims, nor can the carbon market finances be counted against their MRV'd support obligations. Participating in these mechanisms should be voluntary. It must be ensured that carbon market instruments that are counted as offsets against an industrialized country aim, should not steal the low-hanging fruits for low-cost mitigation actions. Instead such carbon market mechanisms should be focused and limited to higher cost mitigation purposes.

### **REFORMING THE PROJECT-BASED CDM**

As a part of the Copenhagen agreement Parties should adopt a mandate to reform the CDM fundamentally. Effective means must be established for eliminating business-as-usual projects, limiting negative environmental and social effects and enhancing the emissions reductions and sustainable development benefits of the mechanism. As a part of this reform, decisions on the following actions should be taken in Copenhagen:

- a) Decision to develop objective criteria and rules for the eligibility of CDM projects to prevent projects with a high likelihood of being non-additional.
- b) Decision to stop crediting projects retroactively.
- c) Decision to improve the role and performance of Designated Operational Entities (DOE). DOEs should be selected and paid by the UNFCCC secretariat or another appropriate UNFCCC body and not by project participants. In addition, the COP/MOP should request the CDM Executive

Board adopts sanctions for DOEs that fail to meet the requirements set out by the Board.

- d) Ensuring that only projects with actual benefits for sustainable development enter the CDM pipeline, the COP/MOP should decide that all CDM projects must meet the social and environmental standards laid out in the Gold Standard and that the assessment is undertaken by an independent institution.
- e) Ensuring impartiality of the CDM Executive Board<sup>30</sup> members and improving their independence *and* professionalism. The COP/MOP should adopt a code of conduct for CDM Executive Board members to clarify what constitutes a conflict of interest.
- f) The COP/MOP should withdraw the methodologies that allow crediting the destruction of the industrial gases HFC-23 and N<sub>2</sub>O, which create a perverse incentive to increase production in industrialized countries and do not provide any meaningful benefits for sustainable development.
- g) Increase transparency. Final decisions on the validation or rejection of projects should be made publicly available.
- h) Criteria for renewal of projects must be revisited.
- i) Nuclear, CCS and further LULUCF activities must not qualify for CDM projects.

#### **JOINT IMPLEMENTATION AND INTERNATIONAL EMISSIONS TRADING**

Joint implementation and international emissions trading should remain available for Parties in the Copenhagen agreement. Banking rules must be reassessed in the light of the overall ambition level and criteria for the industrialized country emissions reduction targets.

#### **NEW INSTRUMENTS FOR CREDITED MITIGATION ACTIONS**

For advanced developing countries the Copenhagen agreement needs to provide new carbon market mechanisms that incentivize robust long-term low-carbon development planning on a sectoral or economy-wide basis which ensure additional emissions reductions and reduce transaction costs.

Credited mitigation actions could include sectoral no-lose targets, sectoral trading and perhaps policy/programmatic CDM – provided that the baselines and methodologies applied guarantee additionality. Credited CMAs should be developed by the In-Country Coordinating Mechanism (ICM) informed by the Carbon Market Regulatory Agency (CMRA). The CMRA would also support setting up the national infrastructure to measure, report and verify emissions in the sector or sectors involved and provide the methodology and guidelines. The role of the CMRA is technical and linked to market-readiness. The Climate Facility should assess any proposed credited CMAs and negotiate baselines as part of the overarching NAMA support discussion. The In-Country Coordinating Mechanism (ICM) should receive input from the country's Designated National Authority (DNA) and also involve the private sector and civil society in the planning.

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<sup>30</sup> Whether or not the EB board continues to function independently in the future agreement or is merged with new institutions as is suggested in this treaty proposal.

Once the credited mitigation action has been approved and implemented, the In-Country Coordinating Mechanism should report annually on credited CMA to the CMRA which would then ensure that the rules are followed and assess the expected supply of the credits. After the CMA has been verified, the CMRA would issue credits according to the measured, reported and verified emissions reductions.

The expert panels of the Carbon Market Regulatory Agency should develop methodologies, for developing countries' consideration, to maintain direct incentives for the project developers and carbon financiers when crediting occurs at a sector level. However, the developing country would have full power in deciding which policies, measures and possible market incentives it wants to use nationally to reach the target level and to pass on the incentives to reduce emissions to the private actors.

### **Science Review and Negotiations of the Next Commitment Period**

The negotiation and ratification process cannot afford to continue at the current pace. The Kyoto and Copenhagen Protocols should lay the foundation and governance structure for much of the action needed to fight dangerous climate change. Negotiations of deeper targets, enhanced actions and ratification of the resultant amendments should occur more rapidly in the future.

#### **START OF NEGOTIATIONS FOR 2018-2022**

The next round of negotiations for the 2018-2022 commitment period should begin no later than 2013, conclude no later than 2015 and be based on a scientific review done in 2014 based on the Fifth Assessment Report of the IPCC (AR5). If negotiations are not successful, the default setting in the Copenhagen Agreement should be a [x%] decrease in the QERCs for industrialized countries and a [x%] decrease in growth limitation of developing country emissions as a group starting on 1 January 2018. We propose no figures here, however these numbers should be set high enough to encourage Parties to begin negotiations on the next round of commitments.

#### **NEED FOR AN EMERGENCY SCIENCE REVIEW CLAUSE**

The state of climate science is evolving rapidly. The Copenhagen Agreement should include a regular review provision, with the first review beginning in 2014 and based on the AR5. The agreement should also include an 'emergency review clause' which could be triggered by a double majority of industrialized and developing countries based on emerging science that demonstrates the need for even stricter targets.

Refer to an Overview of the assumed timelines for the LCAP, ZCAP and negotiations on the next page.

## Overview of the different timelines assumed

### LCAP

NAMAs and LCAP preparation, with support (2010)		Final LCAP (2011)	LCAP implementation reviewed biennially	LCAP and NAMAs adjusted every five years
<ul style="list-style-type: none"> <li>– Pilot NAMAs and LCAPs out by June 2010</li> <li>– Pilot NAMAs implemented early with “learning by doing”</li> </ul>	<ul style="list-style-type: none"> <li>– MRV-Review of adequacy of NAMAs (quantity and quality of NAMAs)</li> <li>– Quantification support needed for enhanced action</li> </ul>	<ul style="list-style-type: none"> <li>– GHG inventories in place, and implemented biennially</li> </ul>		<ul style="list-style-type: none"> <li>– Consider previous emissions, policies, protection of emissions, adaptation needs, implications for LCAPs and support</li> <li>– Assess the level of ambition achieved through previous LCAP/NAMA cycle</li> </ul>

### ZCAP

March 1, 2001	March-September	September 1, 2010	January 1, 2011	March 31, 2011	March 31, 2011	March 31, 2011
Developed country draft ZCAP submitted	Review and dialogue of draft ZCAP	Comments from review and dialogue	Final ZCAP and start of review process for compliance	ZCAP accepted or referred to facilitative branch	1 <sup>st</sup> reporting under ZCAP review by Expert Review Teams	Countries report biennially on ZCAP implementation, and adjust for the next 5 year commitment period

### Negotiations

2013	2014	2015
Start next 5-year commitment period negotiations	Science review based on IPCC AR5	End next 5-year commitment period negotiations

## **Conclusions**

The new Copenhagen Protocol and the amended Kyoto Protocol would form the core of the agreement in December, with the main elements agreed and a process decided to finalize the details through decisions in the year or so following, in order to ensure ratification by 2011. The chief number of details should be adopted at COP16 in 2010. While in a couple of cases more detail is provided than is likely to be agreed in Copenhagen, the core elements of each provide an understanding of what must be agreed in December. Those are summarized below.

This document was not drafted in a vacuum but rather by individuals from around the world reflecting upon their countries' national circumstances and debates with the knowledge that transformation is required. It is a testament to the fact that if the will to solve a problem is there, it is possible.

The final Copenhagen agreement must balance the need for ambition with equity, the need for short-term action with medium and long-term certainty and vision on all aspects of the Bali Action Plan and the need for a legally binding form within current process constraints. This document does this by outlining a legal instrument, a Copenhagen Protocol and a set of amendments to the Kyoto Protocol that include a carbon budget based on what the latest science informs us are the outer limits of what humankind can emit if we want a high probability of staying below 2 degrees C. The carbon budget must be scientifically based and equitably shared. Industrialized countries must take the lead both in reducing emissions and in supporting the low-carbon and climate resilient development of developing countries.

In order to build confidence that industrialized countries will deliver on both, the document includes a short-term quantified emissions reduction commitment, a set of benchmark targets out to 2050 so as to demonstrate continued reduction and a plan that includes each country's effort to decarbonize and transform society and provide the needed support for adaptation, technology and ending deforestation.

We know that without significant supported actions in developing countries, based on bottom-up assessments of what is possible and coupled with a carbon budget aim derived from what science tells us, we will not succeed. A new mechanism – the Copenhagen Climate Facility is proposed to bring together developing country action plans on mitigation, deforestation, technology and adaptation with the needed support, with transparent and equitable governance as a core starting point. It is clear that the new Protocol must include a mechanism or mechanisms to deliver the new and additional finance in a predictable fashion at scale.

There is an enhanced role for the carbon market, with the strong improvement of the CDM and the creation of new sectoral mechanisms built in. This enhanced role however requires increased diligence in oversight and therefore a Carbon Market Regulatory Authority is created to ensure market quality. Carbon market mechanisms driven through industrialized country "offsets" should be designed to not steal the low-hanging fruit of cheaper emission reductions in developing countries.

The Adaptation Action Framework must be robust and include not only new funding but also an insurance mechanism and a compensation and restitution mechanism.

Technology cooperation should occur quickly on both mitigation and adaptation but be aided by a longer-term vision and a set of action programmes that ensure that the world is delivering technology at adequate scale and speed and within a 'protect and share' framework of intellectual property rights.

The new agreement must also build trust through transparency and rigorous data collection and verification in a manner that reflects the different capabilities of countries. Creating such a system will allow Parties to be more ambitious, trusting that others are also reaching to the outer limits of what is possible. The compliance system must therefore also be strengthened as suggested.

# A Copenhagen Climate Treaty

## Version 1.0

A Proposal for a Copenhagen Agreement by Members of the NGO Community

LEGAL TEXT



David  
Suzuki  
Foundation



GREENPEACE

# **A PROPOSAL FOR A COPENHAGEN AGREEMENT BY MEMBERS OF THE NGO COMMUNITY**

Version 1.0 – DRAFT Legal Text

*This document contains a draft version of how the agreement in Copenhagen could look like - in legal form. This is very much a work in progress. The purpose of this exercise is two fold: to outline to Parties how the agreement could fit together substantively and b) to demonstrate that the two Protocol option is a feasible and desirable outcome for the legal form. Attempts have been made through provisions in both the proposed Copenhagen Protocol and the amendments to the Kyoto Protocol to unify the accounting, reporting and verification of as well as compliance with emission reduction targets for industrialized countries and to create a forum for these bodies (CMCP & CMKP) to jointly develop rules in the future. It is possible that not every T has been crossed or i dotted and further provisions or amendments linking the two may be required. (Developing country mitigation aims and their MRVed support are all under the Copenhagen Protocol).*

*Many Articles are cross-referenced throughout the Protocol and Amendment; information in () is intended to guide the reader. Should any discrepancies exist, the accompanying narrative is authoritative.*

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# COPENHAGEN PROTOCOL TO THE UNFCCC

## **Preamble**

*The Parties to this Protocol,*

*Being Parties to the United Nations Framework Convention on Climate Change, hereinafter referred to as “the Convention”,*

*Determined to achieve the ultimate objective of Article 2 of the Convention to prevent dangerous anthropogenic interference with the climate system in a timely manner,*

*Recalling the provisions of the Convention,*

*Recalling also the provisions of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and of decisions taken pursuant to its implementation, particularly the Marrakech Accords,*

*Being guided by Article 3 of the Convention,*

*Being guided by the Fourth Assessment Report of the Intergovernmental Panel on Climate Change,*

*Determined to act in light of the best available science,*

*Cognizant of the work and results of the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol,*

*Recognizing that the wealthiest and most capable countries should substantially contribute to the financial and technological support required to enable developing countries to pursue a low-carbon development path, stop deforestation and adapt to the inevitable impacts of climate change,*

*Emphasizing that significant co-benefits to human health, economic and social development, biodiversity protection and nation security exist from implementing emissions reduction measures,*

*Recognizing that neither adapting to the impacts of climate change nor reducing GHG emissions alone can avoid all climate change impacts, but that reducing GHG emissions is the best adaptation strategy and that mitigation efforts in the near-term have a significant impact on the ability to achieve lower stabilization levels,*

*Pursuant to the Bali Action Plan adopted by decision 1/CP.13 of the Conference of the Parties to the Convention at its thirteen session,*

Have agreed as follows:

## **Article 1 – Definitions**

For the purposes of this Protocol, the definitions contained in Article 1 of the Convention shall apply. In addition:

1. “Bali Action Plan” means decision 1/CP.13 adopted by the thirteen Conference of the Parties in Bali on 15 December 2007.
2. “Conference of the Parties” means the Conference of the Parties to the Convention.
3. “Convention” means the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992.
4. “Global carbon budget” means the total global anthropogenic emissions of all greenhouse gases from the sources listed in Annex A weighted by the 100 year global warming potentials for greenhouse gases as accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties that are allowed to be emitted over a specified period of time and expressed in gigatonnes of carbon dioxide equivalence.
5. “Intergovernmental Panel on Climate Change” means the Intergovernmental Panel on Climate Change established in 1988 jointly by the World Meteorological Organization and the United Nations Environment Programme.
6. “Kyoto Protocol” means the Kyoto Protocol to the United Nations Framework Convention on Climate Change, adopted in Kyoto on 11 December 1997 and as subsequently amended.
7. “Marrakesh Accords” means decisions 2/CP.7 to 24/CP.7 inclusive adopted by the seventh Conference of the Parties in Marrakesh on 10 November 2001 and affirmed at the first Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.
8. “Montreal Protocol” means the Montreal Protocol on Substances that Deplete the Ozone Layer, adopted in Montreal on 16 September 1987 and as subsequently adjusted and amended.
9. “Parties present and voting” means Parties present and casting an affirmative or negative vote.
10. “Party” means, unless the context otherwise indicates, a Party to this Protocol.
11. “**Party included in Annex B**” means, unless the context otherwise indicates, a Party included in Annex B of the Kyoto Protocol as amended or in Annex B of this Protocol, as may be amended.
12. “Party included in Annex I” means a Party included in Annex I to the Convention, as may be amended, or a Party which has made a notification under Article 4, paragraph 2 (g), of the Convention.
13. “**Party not included in Annex B**” means a Party not included in Annex B of the Kyoto Protocol as amended or in Annex B of this Protocol, as may be amended.

*This article is similar to Article 1 of the Kyoto Protocol except for the references to the Bali Action Plan (para. 1), the global carbon budget (para. 4), the Kyoto Protocol (para. 6), the Marrakesh Accords (para. 7) and Annex B/non-Annex B Parties (paras. 11 and 13). The corresponding amendments to the Kyoto Protocol should include the definitions for the Copenhagen Protocol, the global carbon budget, the Marrakesh Accords and Annex B/non-Annex B Parties.*

## **Article 2 – A Shared Vision for Long-term Cooperative Action**

1. In order to achieve the ultimate objective of the Convention to prevent dangerous anthropogenic interference with the climate system in a timely manner, the global mean temperature must peak as far below 2°C above the pre-industrial period as possible and drop to the pre-industrial level as fast as possible. Even an increase of 1.5°C above pre-industrial levels may lead to irreversible impacts and put into jeopardy the ability of Parties to meet the ultimate objective of the Convention. Global anthropogenic emissions of all greenhouse gases from all sources listed in Annex A must therefore peak during the first commitment period of this Protocol, namely 2013-2017.
2. A global carbon budget shall guide the emission reduction targets and actions of all Parties pursuant to paragraph 1. A global carbon budget for 2020 is hereby defined as no higher than 36.1 Gt CO<sub>2</sub>e<sup>1</sup>; the budget for 2050 shall be no higher than 7.2 Gt CO<sub>2</sub>e.
3. Effort sharing to achieve the ultimate objective of the Convention and pursuant to the shared vision of this Article and that of the Kyoto Protocol should be based on the criteria of responsibility, capability and potential to mitigate and take into account the principles of common but differentiated responsibility and respective capability, equity, fairness and consider that economic and social development, poverty eradication and adaptation to climate change are the top priorities for developing countries.
4. The carbon budget for the industrial GHG emissions of Parties included in Annex B shall be 11.7 Gt CO<sub>2</sub>e for 2020 and 1.0 Gt CO<sub>2</sub>e for 2050. To stay within this carbon budget, Parties included in Annex B shall, as a group, reduce their industrial GHG emissions by at least 40% per cent below 1990 levels by 2020, at least 60% below 1990 levels by 2030 and 95% below 1990 levels by 2050.
5. Parties not included in Annex B should aim to stay within a carbon budget of 23.5 Gt CO<sub>2</sub>e in 2020 and 6.3 Gt CO<sub>2</sub>e in 2050. The type, scale and scope of enhanced actions undertaken by Parties not included in Annex B shall vary greatly given the wide range of national circumstances and shall be supported by technology, financing and capacity building from Parties included in Annex B. This level of ambition shall guide any new commitments, institutions, instruments and mechanisms established under this Protocol and any related legal instruments or decisions, including the Kyoto Protocol as amended.

*The developing country carbon budget would require a [3-35%] reduction in emissions below the SRES business as usual scenario baselines for industrial greenhouse gas emissions by 2020, with the most common estimate at around 21-24%. Please see the explanatory text for Art. 4 for further explanation on the range of action anticipated on the part of developing countries.*

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<sup>1</sup> 11.7 Gt CO<sub>2</sub>e for industrialized countries' industrial GHG emissions; 23.5 Gt CO<sub>2</sub>e for developing countries' industrial GHG emissions and 1.0 Gt CO<sub>2</sub>e for emissions from land-use change (differences in the addition are due to rounding).

6. Reducing emissions from deforestation is necessary to stay within the global carbon budget specified in paragraph 2 and to achieve the ultimate objective of the Convention. The vast majority of gross emissions from deforestation and forest degradation in Parties not included in Annex B shall be eliminated by 2020, with a view to eliminating nearly all human induced forest emissions by 2030. All efforts to reduce emissions from deforestation should be fully consistent with the rights of indigenous peoples and should contribute to the conservation of biological diversity.

*Emissions from land-use change should be kept to no more than 1 Gt CO<sub>2</sub>e in 2020 and brought down to zero by 2030 at the latest.*

7. All peoples, cultures and nations have the right to survive and the right to develop sustainably. The responsibility for adequately dealing with, and adapting to, the adverse consequences of climate change, including for the protection of cultures, especially those of Arctic peoples, and nations, especially the Small Island Development States, whose existence is threatened, must be fairly shared according to agreed principles. Developed countries and other countries with the capacity to do so shall support the building of adaptive capacity and climate resilience in developing countries, particularly the most vulnerable.
8. Life on earth is an intricately interconnected web helping to maintain the conditions for its own survival. Because of their intrinsic worth and because of the services they provide, the viability of all ecosystems should be maintained, in accordance with the ultimate objective of the Convention, requiring stabilization of greenhouse gas concentrations in the atmosphere at a level achieved within a time-frame sufficient to allow them to adapt naturally to climate change.
9. The carbon budget and emissions reduction targets shall be reviewed at regular intervals and in a timely manner, continually strengthened and revised in light of the best available science. Should new and emerging science suggest that more stringent budgets and targets are required to avoid dangerous climate change and ensure the right of all peoples, cultures and nations to survive, these budgets and targets shall be adjusted immediately.
10. A massive scaling up of financial resources, from both the public and private sources, is required in order to adequately, sufficiently and swiftly reduce anthropogenic GHG emissions, adapt to climate change and achieve the ultimate objective of the Convention and the shared vision of this Protocol. For the first commitment period of this Protocol, 2013-2017, this will require at least 160 billion USD to support capacity building, adaptation, reducing emissions from deforestation and technology diffusion in developing countries. These financial resources should primarily be raised through the auctioning of assigned amount units in a predictable and timely manner.
11. A Technology Development Objective is required to meet the challenge of avoiding dangerous climate change. The Objective should be visionary in scope but outline, through detailed Technology Action Programmes, how to shift the world onto a low-carbon development path. To spur innovation and advances in

## DRAFT

new mitigation and adaptation technology, total investment in research, development and deployment should increase to at least double current levels by 2012 and four times current levels by 2020. Collaborative efforts are essential, particularly between developed and developing countries and between developing countries themselves. Large scale diffusion of proven low-carbon technologies, especially renewable energy technologies, and the adoption of energy efficient measures must commence immediately, with a view to obtaining at least two thirds of the world's primary energy from renewable energy sources by 2050. Parties should strive to improve the average energy intensity of the global economy by at least 2.5 per cent per year until 2050. Significant emphasis must also be placed on increasing the access by all to modern energy services, with a view to eliminating energy poverty by 2025.

*For an example of how to achieve these renewable energy targets, see the European Renewable Energy Council and Greenpeace International's Energy Revolution Scenario at <http://www.energyblueprint.info> .*

12. All institutions, instruments, mechanisms and policies and actions developed pursuant to this Protocol shall be governed in an open, transparent, fair and effective system under the ultimate authority of the Conference of the Parties serving as the meeting of the Parties.
13. All Parties acknowledge and agree that it will only be possible to meet the goals of this shared vision if commitments under both the Copenhagen Protocol and Kyoto Protocol as amended are fulfilled. This Protocol shall be applied and implemented provisionally from the date of its adoption by the Conference of the Parties and shall continue to apply and be implemented on a provisional basis until the entry into force of the Protocol for each Party.

*The Kyoto Protocol should be amended to include a shared vision that mirrors the one outlined in this Article.*

### **Article 3 – Deep Reductions for Industrialized Countries**

1. All industrialized country Parties shall commit to emission pathways that are in line with limiting global temperature rise to as far below 2°C above pre-industrial levels as necessary, peaking global GHG emissions in the 2013-2017 commitment period and staying within the global carbon budget, and to deliver finance and technology according to their responsibilities and respective capabilities and the needs of developing country Parties pursuant to the principles and provisions of Article 2 (Shared Vision).
2. The Parties included in Annex I that had ratified<sup>2</sup> the Kyoto Protocol as of 15 December 2007 shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A of that Protocol do not exceed their assigned amounts, calculated pursuant to their quantified emission reduction commitments inscribed in the third column of the table contained in Annex B of the that Protocol as amended.

*This paragraph should mirror an amended Article 3.1 in the Kyoto Protocol. 15 December 2007 is the day the Bali Action Plan was adopted.*

3. The Parties included in Annex I that had not ratified the Kyoto Protocol as of 15 December 2007 shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A of this Protocol do not exceed their assigned amounts, calculated pursuant to their quantified emission reduction commitments inscribed in Annex B of this Protocol. The quantified emission reduction commitments inscribed in Annex B of this Protocol shall be comparable in nature and scale to those quantified emission reduction commitments undertaken in Article 3 and inscribed in the third column of the table contained in Annex B of the Kyoto Protocol as amended, and shall be consistent with achieving the shared vision of both Protocols.

All relevant provisions of the Kyoto Protocol as amended and the elaboration of these provisions in decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, including the Marrakech Accords, shall apply *mutatis mutandis* to the provisions governing the actions, accounting rules, commitments and obligations of Parties included in Annex I that had not ratified the Kyoto Protocol as of 15 December 2007 contained in this Protocol.

*The US and other AI non-ratifying parties should take on reduction targets of a comparable nature and scale to AI parties that have ratified the Protocol as well as be able to participate in the Kyoto Flexible Mechanisms, emissions trading and be bound by the Kyoto compliance regime.*

4. All Parties with [insert threshold] that were not listed in Annex B of the Kyoto Protocol and are not otherwise covered by the provisions of paragraphs 2 and 3

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<sup>2</sup> For the sake of clarity, only ratification is referred to here, however the provision is meant to cover ratification, acceptance, accession and approval.

shall adopt quantified emissions reduction or limitation commitments. These commitments shall be inscribed in Annex B of this Protocol. The Parties shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A do not exceed their assigned amounts.

*Under this provision Newly Industrialized Countries, such as Singapore, South Korea and Saudi Arabia, would be required to take on a quantitative limitation or reduction target set in absolute terms. These commitments need not be identical in stringency or scale to Annex I countries, i.e. they do not need to be in the range of -25-40% below 1990s levels, however they should contribute towards any Annex I group target.*

*The threshold for inclusion in this paragraph would need to be negotiated. We have left the threshold blank here, however GDP at purchasing power parity (PPP) per capita of greater than 20,000 USD could be an appropriate indicator.*

5. All Parties governed by the provisions of this Article shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A of the Kyoto Protocol as amended or of this Protocol do not exceed their assigned amounts, calculated pursuant to their quantified emission limitation and reduction commitments inscribed in the third column of the table contained in Annex B of the Kyoto Protocol as amended or of this Protocol, with a view to reducing their overall emissions from industrial sources of such gases by at least 23 per cent below 1990 levels in the commitment period 2013 to 2017.

*All developed and newly industrialized countries should reduce their emissions, as a group, by 23 percent below 1990 levels in the 2013-2017 commitment period. This target is consistent with an emissions reduction trajectory that yields a 40 % reduction in emissions by 2020 and represents the annual average reduction for the commitment period (i.e. what the target in 2015 would be).*

6. All Parties included in Annex B shall produce a Zero Carbon Action Plan (“ZCAP”). The purpose of the Plan is three-fold:
  - a) To assist in the development and implementation of a visionary long-term plan for a low GHG emissions trajectory for each Party included in Annex B based on the global carbon budget in 2050 and the interim targets for Parties included in Annex B, as a group, in accordance with the provisions of Article 2;
  - b) To assist Parties in the identification and achievement of the timely investments required for the economy-wide transformation needed to achieve low carbon sustainable development in accordance with the provisions of Article 2; and
  - c) To assist Parties in undertaking the necessary policies, measures and actions to fulfill their support obligations in accordance with the provisions of this Protocol.
7. A Zero Carbon Action Plan shall:
  - a) Be holistic in nature;

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- b) Define a national emissions pathway to 2050, including 2020, 2030 and 2040 goals, in line with a Party's commitment under this Article or Article 3 of the Kyoto Protocol as amended and the shared vision of the Copenhagen and Kyoto Protocols;
- c) Detail and outline the policies and measures, including financial arrangements, institutional structures and relevant domestic legislation, in place or planned that will ensure this emissions pathway is followed and that the Party's quantified emission limitation and reduction commitment is met;
- d) Detail and outline how a country proposes to meet its finance, technology and capacity building support obligations, including measures to avoid double counting of offset credits or financial support and information on relevant domestic legislation;
- e) Detail and outline national technology roadmaps and research, development, and demonstration plans that are commensurate with the 2050 vision for emissions reductions and the Technology Development Objective in accordance with Article 8; and
- f) [...]

*Each industrialized country should submit a Zero Carbon Action Plan (ZCAP). This Plan should be **visionary** and outline the country's mitigation policies and measures that will ensure that it meets its QERC/QELRC and stays on track to follow the emissions pathway agreed upon in the shared vision (e.g. 2020, 2030 and 2050 goals). It should also describe how a country intends to meet its support obligations. ZCAPs will not only assist in setting a pathway towards a low carbon economy for each country, they will also build trust globally that each country is indeed making adequate institutional and financial investments/arrangements to meet its QERC/QELRC and support obligations.*

8. All Parties included in Annex B shall submit a draft Plan for review to the Mitigation Board of the Copenhagen Climate Facility, provided for in Article 6, paragraph 3, at the earliest possible date and no later than 1 March 2010 and a full Plan to the Board by 1 January 2011 in accordance with the provisions of Article 6 (CCF).

*ZCAPs should be initially reviewed by the Mitigation Board of the Copenhagen Climate Facility (see Article 6) to ensure that the proposed policies and measures are in line with the level of ambition of the national targets. The reporting on the implementation of the ZCAPs should be integrated into biennial national communications reporting and reviewed as part of a strengthened reporting and review process based on Articles 5, 7 and 8 of the Kyoto Protocol. Provisions on review are covered in depth in Article 10 (MRV).*

9. Parties included in Annex B shall update their Zero Carbon Action Plans before the commencement of each subsequent commitment period, including completing the review process by the Mitigation Board in accordance with Article 6.
10. The Conference of the Parties serving as the meeting of the Parties shall develop guidelines, including a common reporting format, for ZCAPs by its first session. These guidelines should build on those developed for the preparation of national communications by Parties included in Annex I adopted by the Conference of the

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Parties, as appropriate. Interim guidelines shall be developed by the Conference of the Parties to be used only for the development of the first ZCAP.

*Guidelines for the initial Plans should be agreed by Copenhagen and a more detailed version agreed by COP16. These guidelines should build upon those for national communications, but rather than being a retrospective review, ZCAPs should project future intentions. We have included some initial requirements (in para. 7), like a 2050 emissions pathway from which countries should back cast to develop their policies and measures, however further work needs to be done to flesh out these details. In the first ZCAP, the level of detail included up until 2020 will necessarily need to be more elaborate than for subsequent budget periods.*

## **Article 4 – Low Carbon Development in the Developing World**

1. All developing country Parties shall commit to emission pathways that are in line with limiting global temperature rise to as far below 2°C above pre-industrial levels as necessary, peaking global GHG emissions in the period from 2013 to 2017 and staying within the global carbon budget, according to their responsibilities and respective capabilities pursuant to the principles and provisions of Article 2 and taking into consideration that economic and social development, poverty eradication and adaptation to climate change are the top priorities for developing countries.
2. Actions to be taken by the Parties not included in Annex B shall aim, as a group, to stay within a carbon budget of not more than 25 Gt CO<sub>2</sub>e for all aggregate industrial anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A during the period from 2013 to 2017. To achieve this the Parties not included in Annex B shall:
  - i) Undertake nationally appropriate mitigation actions (“NAMAs”) driven by their sustainable development objectives, including *inter alia*, energy security, air quality, and job creation with their own domestic resources; and
  - ii) Adopt further nationally appropriate mitigation actions, subject to the provision of sufficient financial and technological support and in line with each Party’s national circumstances and development priorities. The provision of financial and technological support from industrialized countries should incentivize further nationally appropriate mitigation actions. Nationally appropriate mitigation actions include, but are not limited to, sectoral approaches, use of carbon market mechanisms and sustainable development policies and measures.

*The more nationally appropriate mitigation actions developing countries undertake and achieve, the more financial and technological support should be made available to support their efforts.*

3. The type, scale and scope of nationally appropriate mitigation actions undertaken by Parties not included in Annex B shall vary greatly given the wide range of national circumstances, with specific nationally appropriate emission pathways determined through the application of a set of criteria related to responsibility, capability and potential to mitigate and taking into account the principles of common but differentiated responsibility, equity and fairness. Support to undertake further nationally appropriate mitigation actions received by Parties not included in Annex B shall be inversely proportional to the level of development of the country.

*A gradient of countries should be established through the application of a set of criteria related to responsibility, capability and potential to mitigate and taking into account the principles of common but differentiated responsibility, equity and fairness.*

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*More developed countries should receive less MRVed support on a percentage basis compared to lesser developed countries; however greater action taken by countries should receive greater support. Thus countries with great mitigation potential will likely receive more support on an absolute basis.*

4. Parties not included in Annex B shall register all of their NAMAs with the Copenhagen Climate Facility, provided for in Article 6, including those already in place, planned or proposed and the support for which is or will be derived from domestic resources, the Copenhagen Climate Facility or other bilateral or multilateral sources in accordance with Article 11 paragraph 5 of the Convention and Article 7, paragraph 9 (Bilateral Support) of this Protocol.
5. When registering a planned, proposed or extant NAMA, a Party not included in Annex B shall include the following information:
  - a) A description of the nature and type of the action;
  - b) Expected GHG emissions reductions and the associated timelines for the achievement of those reductions;
  - c) Type, nature and scale of financial, technology and capacity building support requested from the Copenhagen Climate Facility, if any;
  - d) If the action builds on other actions already in place or planned, a breakdown of the expected GHG emission reductions and associated timelines for the achievement of those reductions for the portion supported by the concerned Party and the portion supported by the Copenhagen Climate Facility or other bilateral or multilateral means, including carbon market mechanisms;
  - e) If the action seeks support from two or more sources, measures to avoid double counting of the GHG emission reductions achieved; and
  - f) Proposed indicators to measure the success of the NAMA.

The Conference of the Parties serving as the meeting of the Parties shall develop further guidelines, including a uniform reporting format, for registering NAMAs at its first session.

*The guidelines for registering NAMAs should build upon those developed for Activities Implemented Jointly.*

6. NAMAs may be registered by Parties not included in Annex B and may receive support from the Copenhagen Climate Facility or other bilateral, regional or multilateral sources now, up to and beyond 2012 in line with the Bali Action Plan, Article 11 paragraph 5 of the Convention and Articles 6 and 7 of this Protocol.

*Industrialized countries should commit considerable funds at Copenhagen to support early implementation of NAMAs so as to help build confidence in the new mechanisms, trust amongst Parties as well as seize cost-effective opportunities to reduce emissions.*

*These 'pilot' NAMAs will help with the development of the NAMA registration infrastructure (guidelines for registry, review of proposals, support matching and review of implementation) through 'learning by doing'.*

*The provisions on matching support for NAMAs are included in Article 6 (CCF).*

7. A Party not included in Annex B may develop a Low Carbon Action Plan (“LCAP”) and is encouraged to do so. The Plan should be developed through a bottom-up country-driven process. The purpose of the Plan is to outline a trajectory for a Party’s GHG emissions, in line with the Party’s sustainable development priorities, that will lead to the development of a low carbon economy and provide a roadmap on how to get there, including financial, technological and capacity building support.
8. The Plan shall present and describe all of a Party’s NAMAs. The Plan shall include:
  - a) Nature and type of each NAMA;
  - b) An indication of the level of ambition of all planned, proposed or extant NAMAs and their collective contribution to achieving the overarching aim of Parties not included in Annex B as specified in paragraph 2;
  - c) Expected GHG emission reductions from unilateral NAMAs and the associated timelines for the achievement of those reductions;
  - d) Barriers to undertaking further nationally appropriate mitigation action;
  - e) Financial, technology and capacity building support required to undertake further NAMAs;
  - f) Estimated GHG emission reductions for those NAMAs referred to in subparagraph (e) and the associated timelines for the achievement of those reductions;
  - g) Proposed indicators to measure the success of each NAMA;
  - h) Proposed mechanism through which a Party could receive support for implementing further NAMAs; and
  - i) The identification of the role foreseen for carbon market mechanisms.

A Party not included in Annex B may integrate their National Adaptation Action Strategy in line with the provisions of Article 5 (Adaptation) to provide a coherent and comprehensive plan to address climate change, should the Party find doing so useful.

The Conference of the Parties serving as the meeting of the Parties shall develop further guidelines, including a uniform reporting format, for LCAPs at its first session.

*LCAPs should provide an integrated framework where a country’s NAMAs can be pulled together in a coherent way. The LCAPs should clarify the link between actions, expected emission reductions and financial, technological (including R&D) and capacity building support needs. NAMAs should form the essential building blocks of a LCAP, the cumulative impact of which should result in the shift to a low carbon economy. To make the development of LCAPs less onerous in the short term they should build upon national plans already in place in many countries.*

9. Notwithstanding paragraph 7, Parties not included in Annex B [insert threshold] shall develop a Low Carbon Action Plan containing all of their nationally appropriate mitigations actions. In addition to the information required under paragraph 8, the following supplementary information should be provided:
  - a) An estimation of the contribution to the overall mitigation aim for Parties not included in Annex B, as specified in paragraph 2;

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- b) Details on action being implemented or to be undertaken in all major emitting sectors; and
- c) A national emissions pathway for 2030 and 2050 in line with Article 2.

The Conference of the Parties serving as the meeting of the Parties shall develop further guidelines on the supplementary information to be included in the required LCAPs at its first session.

*The threshold for inclusion in this paragraph would need to be negotiated. We have left the threshold blank here; however countries whose GHG emissions contribute to more than 1% of global GHG emissions could be an appropriate indicator.*

*Guidelines for these Plans should be agreed by Copenhagen. They should be as simple and straightforward as possible with the necessary level of detail.*

- 10. All LCAPs produced shall be reviewed by the Mitigation Board, provided for in Article 6, paragraph 3. Parties not included in Annex B required to develop an LCAP under paragraph 9 shall submit a draft Plan for review to the Mitigation Board at the earliest possible date and no later than 1 June 2010 and a full Plan to the Board by 1 January 2011 in accordance with the provisions of Article 6 (CCF).

*While the timeline to produce the LCAPs is ambitious, it is not unrealistic, especially considering that many countries already have domestic plans to combat climate change which can be built upon. This strict timeline for both industrialized and developing country Plans is crucial so that all countries will know at the time of ratification what the level of ambition for all other countries will be and for developing countries, what level of financial, technology or capacity building support they will receive for their enhanced efforts.*

- 11. A Party not included in Annex B for which emissions from deforestation and forest degradation are a significant source of its emissions shall develop and incorporate its National Action Plan for REDD, pursuant to Article 9, paragraph 7, into its Low Carbon Action Plan. The review of National Action Plans for REDD and the allocation of financial support for activities contained therein shall be undertaken by the REDD Board in line with the provisions of Article 9 (REDD).
- 12. Financial support for the registration of NAMAs, pursuant to paragraphs 4 and 5, and for the development and revision of the Low Carbon Action Plans, pursuant to paragraphs 7, 9, and 10, for all Parties not included in Annex B shall be provided by Parties included in Annex B on an agreed full cost basis.

*The details on the a priori review of the NAMAs/LCAPs, the support matching forum for NAMAs and their inclusion into a registry are covered under Article 6 (CCF), while the reporting on their implementation is covered under Article 10 (MRV).*

## **Article 5 – Adaptation Action Framework**

1. The world has already crossed the threshold beyond which it is no longer possible to avoid negative impacts of anthropogenic climate change. Adapting to, and coping with, the impacts of unavoidable climate change are therefore critical elements of the climate challenge.
2. All Parties shall take nationally appropriate actions to reduce impacts from climate change through adaptation, including disaster risk reduction, with a view to reducing vulnerabilities, enhancing and ensuring climate-resilient development and poverty reduction, and enhancing existing or developing new, appropriate in-country institutions or processes for transparent and participatory adaptation planning and implementation, and effective monitoring and evaluation systems.

### ADAPTATION ACTION FRAMEWORK

3. Recognizing the urgency of adaptation needs, an Adaptation Action Framework (AAF) is hereby established. Its objectives are to:
  - a) Strengthen international activities to facilitate, and massively scale-up, financial, technological and capacity building resources for developing countries, for country driven adaptation planning and implementation, and to manage loss and damages from current and future impacts of climate change;
  - b) Prioritise the needs of the most vulnerable developing countries – particularly LDCs, SIDS and African countries prone to droughts, desertification and flooding, and other extremely poor and vulnerable countries – as well as the needs and interests of communities and people most vulnerable to climate change, in particular women, children and indigenous peoples, protecting and fulfilling their fundamental rights;
  - c) Ensure that all Parties meet their adaptation-related commitments under the Convention and the Bali Action Plan, in particular the provision of financial support by industrialized countries to support developing countries, adhering to the principles of responsibility and capability in the provision of resources;
  - d) Promote an integrated approach to adaptation which is aimed at enhancing resilience by reducing people’s vulnerability. Such integrated approaches should be incorporated into existing development processes, institutions and mechanisms, poverty reduction and disaster risk reduction strategies as well as natural resource management strategies, and support integrated adaptation approaches that link community and ecosystem based adaptation;
  - e) Provide easy and direct access to much-needed resources for governments, communities and people most vulnerable to climate change, to gather and generate information on the local impacts of climate change and to take immediate measures to plan, implement and monitor measures to adapt to climate change, reduce vulnerabilities, increase resilience and cope with loss and damages from climate change;
  - f) Facilitate the exchange of experience, expertise and knowledge relevant to adaptation planning and implementation, including local and traditional knowledge;
  - g) Establish publicly funded, global and regional risk management and insurance mechanisms to cover large-scale disaster losses, and support and assist in establishing (micro-) insurance systems for addressing medium-sized impacts;

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- h) Initiate a process with the aim of establishing an international compensation and rehabilitation mechanism to deal with the loss and damages from the immediate and slow-onset impacts where adaptation is no longer possible and that cannot be covered through insurance;
- i) Establish and strengthen regional adaptation centres and initiatives for adaptation planning, forecasting and information sharing on projected climate change impacts;
- j) Support the application, dissemination and the development of adaptation technologies in accordance with identified needs through, *inter alia*, international cooperation; and
- k) Support effective monitoring and evaluation systems, building on in-country experience and processes.

### PRINCIPLES FOR THE ADAPTATION ACTION FRAMEWORK

- 4. Actions under this framework, including the financing, planning and implementation of adaptation actions, shall adhere to the following principles:
  - a) Respect, protect and promote fundamental human rights and basic rights as outlined in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and other relevant conventions and treaties;
  - b) Prioritize the adaptation needs of, and ensure that resources reach, the most vulnerable including marginalised groups, women and children, indigenous peoples, local communities and those disproportionately impacted, as well as vulnerable ecosystems, through the inclusion at every stage of planning and implementing adaptation activities as appropriate, including in the governance and disbursement of adaptation finance, planning, implementation, monitoring and reporting;
  - c) Recognize that climate change impacts are transboundary and vary between and within countries, and responses will have to be based on local assessment of risks, needs and circumstances, and be relevant to local people and communities;
  - d) Protect and sustainably manage the natural resource base, recognizing that ecosystems and the goods and services they provide, such as water, food, soil protection and carbon capture, underpin resilience and are fundamental to supporting human adaptation and sustainable development;
  - e) Maximize national, sub national and community level ownership over adaptation planning and implementation processes and disbursement of adaptation finance, in order to enable and encourage participatory local-level planning and implementation;
  - f) Plan and implement adaptation actions in a transparent and well documented way that is open to public scrutiny and discourse;
  - g) Support the establishment of flexible long-term processes and mechanisms for adaptation, in recognition of the long-term nature of climate change impacts, respective adaptation and climate-resilient development. Adaptation should be integrated into existing development planning and implementation processes at the national level, and consider ecosystem feedbacks to promote poverty reduction and long-term resilience;
  - h) Ensure adaptation actions deliver no-regret and multiple-benefit measures and avoid mal-adaptation and conflict, and support documentation and the scaling

up of good practices of implementation in community and national adaptation projects;

- i) Ensure gender equity in planning and decision-making when implementing adaptation actions, recognizing the special needs, interests and knowledge of women, their particular vulnerability to climate change and their capacity to contribute to adaptation strategies;
- j) Adopt a process driven by a learning-by-doing approach on adaptation planning and implementation, recognizing the urgency to adapt, even in the absence of complete information and the need to develop and implement flexible plans and programmes that can be updated on the basis of new information and learning;
- k) Adhere to the precautionary principle, agreed upon in Principle 15 of the Rio Declaration and Article 3, paragraph 3 of the Convention, in adaptation planning, decision-making and implementation, with regard to the scale and nature of adaptation actions and to prevent mal-adaptation. Any lack of full scientific certainty should not be used as a reason to postpone or scale down action on adaptation; and
- l) Build upon, and integrate adaptation actions with, existing experience from relevant processes and measures within and outside the UNFCCC, including, but not limited to, the lessons learned and outcomes from, *inter alia*, the Nairobi Work Programme on Impacts, Vulnerability and Adaptation to Climate Change, the Hyogo Framework of Action and the Convention on Biological Diversity, when planning and implementing adaptation actions.

#### ADAPTATION BOARD

5. The Adaptation Board, provided for in Article 6, paragraph 3, shall undertake the following functions and any other functions assigned to it by the Conference of the Parties serving as the meeting of the Parties:
  - a) Co-ordinate, support, implement, monitor and review progress on the implementation and enhancement of the Adaptation Action Framework;
  - b) Develop and adopt guidelines for the preparation of National Adaptation Action Strategies;
  - c) Adopt entitlement allocations for financial support to Parties not included in Annex B for implementation of their NAAS and Urgent Action and Adaptation Readiness related activities, upon recommendation from the Adaptation Technical Panel;
  - d) Develop the modalities and procedures for the operation, and supervise the implementation, of the Climate Risk Insurance Mechanism, referred to in paragraph 18, with the assistance of the Adaptation Technical Panel. These modalities and procedures should ensure transparency, efficiency and accountability through independent auditing and verification of the assistance provided for middle-layer risk through the Climate Insurance Assistance Facility and risk transfer activities through the Climate Insurance Pool for high level risks, in accordance with paragraph 19.
  - e) Forward its recommendations to the Executive Committee for adoption.

The Adaptation Board may provide guidance to the In-Country Coordinating Mechanism(s), provided for in Article 6, paragraph 11, as requested.

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6. The Adaptation Board shall coordinate its operation with other institutions relevant to adaptation, insurance and disaster risk management, including United Nations organizations and other relevant international organizations.

*The Adaptation Board should be based on the governance and operational principles of the Adaptation Fund. The existing Adaptation Fund Board could be expanded to take up the role of, and essentially become, the Adaptation Board.*

### ADAPTATION TECHNICAL PANEL

7. The Adaptation Board shall be supported by a Technical Panel. The Panel shall, *inter alia*:
  - a) Assist in the preparation of the National Adaptation Action Strategies and make recommendations to the Adaptation Board regarding the adoption of entitlements for periodic grant instalments;
  - b) Assist in the operation of the Climate Risk Insurance Mechanism;
  - c) Provide support in the establishment of an international Compensation and Rehabilitation Mechanism in accordance with paragraph 26;
  - d) Ensure the gathering and dissemination of relevant knowledge and information produced by subsequent phases of the Nairobi Work Programme; and
  - e) Provide information on, and assist in the evaluation of, the ongoing work to implement adaptation under the Convention, including through international technology cooperation.

### NATIONAL ADAPTATION ACTION STRATEGIES

8. Each Party not included in Annex B shall prepare a National Adaptation Action Strategy (“NAAS”). The purpose of the Strategy is to provide a long-term guiding, flexible framework which can be gradually implemented with appropriate actions, respecting in their timing, quality and scale different national circumstances, and which initiates the required in-country processes to cope with the long-term challenge of climate change. The NAAS may include, *inter alia*, actions suitable for:
  - a) Developing appropriate and comprehensive assessments of vulnerability to climate change, including a contextualized understanding of the most vulnerable groups of society and the identification of major expected impacts from climate change and their impacts on sustainable development;
  - b) Planning and implementing proactive adaptation actions in all relevant components of the national economy, society and the environment, including concrete adaptation projects and programmes and including compensation and restitution for extreme adaptation such as relocation or restitution, where other forms of adaptation are no longer considered available;
  - c) Developing and operating national, sub-national and local, publicly funded insurance schemes, such as micro-insurance;
  - d) Integrating adaptation measures into all development and relevant policy decisions at all levels in both private and public sectors;
  - e) Promoting adaptation through multilateral bodies, the public and private sector and civil society;
  - f) Researching, supporting, developing, sharing and increasing the use of new and available technology that decreases impacts of climate change and increases adaptive capacity;

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- g) Providing fiscal incentives, tax and duty exemptions and regulations for adaptation measures and initiatives;
  - h) Implementing measures to decrease barriers to adaptation by promoting the building of adaptive capacity;
  - i) Establishing international and regional cooperation on adaptation initiatives, measures and programmes for the management of transboundary and multi-national adaptation issues, in accordance with Article 3, paragraph 3 of the Convention;
  - j) Identifying and implementing general institutional requirements and approaches required for coping with the long-term challenge, including national and sub-national mechanisms for governance and disbursement of adaptation finance, planning, implementation, monitoring and reporting;
  - k) Developing and implementing regional co-operation initiatives, jointly with other countries in the region, including establishing new, or enhancing or reforming existing regional adaptation centres or networks; and
  - l) Identifying adaptation technology needs and providing incentives for the dissemination and development of adaptation technologies through, where appropriate, the Technology Action Programmes under Article 8.
9. The NAAS shall be reviewed initially by the Technical Panel, pursuant to the guidelines adopted by the Board under sub-paragraph (b) of paragraph 5 and updated regularly by the Party concerned.
10. Implementation of the Strategy shall be evaluated by existing or newly established nationally appropriate institutions and processes, through the In-Country Co-ordinating Mechanism (ICM) provided for in Article 6.
11. The NAAS shall inform the decisions of the Adaptation Board on entitlements pursuant to paragraphs 5 and 14.
12. LDCs, SIDS and African countries prone to droughts, desertification and flooding, and other extremely poor and vulnerable countries, shall receive upfront support for operationalizing the provisions above related to the ICM and the preparation of their NAAS.

### SUPPORT FOR THE IMPLEMENTATION OF THE ADAPTATION ACTION FRAMEWORK

13. The major share [at least 75%] of the financial resources available to the Adaptation Board shall be used to support country-driven adaptation in developing countries and another [10%] for the operation of the Climate Risk Insurance Mechanism. Further funding purposes include regional cooperation activities, the continuation of the Nairobi Work Programme and activities by international and non-governmental organizations.
14. Parties not included in Annex B, particularly LDC, SIDS and African countries prone to droughts, desertification and flooding and other extremely poor and vulnerable countries, shall be entitled to receive periodic grant instalments to cover the full additional costs of on-going adaptation planning and implementation.

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15. These entitlements shall be based on a country-specific pre-allocation of a share of the resources available to the Board, taking into account the particular vulnerability of countries mentioned in paragraph 14.
16. Each Party not included in Annex B may receive a share of its pre-allocated annual entitlement as a first instalment for implementing Adaptation Readiness activities and for immediate needs until the proper process to develop National Adaptation Action Strategies is in place.

### *URGENT ACTIONS AND ADAPTATION READINESS*

17. Parties not included in Annex B, in particular LDCs, SIDS and African countries prone to droughts, desertification and flooding, and other extremely poor and vulnerable countries, shall receive support in the form of upfront financing as well as technology and capacity-building support to:
  - a) Plan and implement urgent adaptation action, including, where appropriate, full implementation of their National Adaptation Programmes of Action (“NAPAs”), to minimise climate impacts on the poorest and most vulnerable, contributing to sustainable development and building and expanding on NAPA experiences or comparable in-country processes;
  - b) Generate information, including to guide funding allocation, on local impacts, vulnerabilities, demographic analyses and risk assessments (with reference to basic human rights standards such as those from the ICESCR) by supporting scientific and institutional capacity where it exists and investing in it where it does not;
  - c) Invest in setting up sustainable systems for the dissemination of the information of climate impacts to ensure that stakeholders are sufficiently informed so that they can fully participate effectively in adaptation planning; and
  - d) Invest in the processes and institutions needed for sustaining planning, implementation and monitoring activities in a manner that enables and encourages the participation of relevant stakeholders, laying the foundation for more comprehensive, large-scale and long-term strategic adaptation planning and implementation.

*The Copenhagen Agreement should also include COP decisions to a) fill the NAPA funding gap, b) develop processes to remove other barriers to full NAPA implementation and c) establish a work programme to bring the provisions related to urgent actions and adaptation readiness into operation as early as 2010, in order to increase the adaptation readiness of vulnerable countries until the entry into force of the Copenhagen Protocol.*

### CLIMATE RISK INSURANCE MECHANISM

18. A Climate Risk Insurance Mechanism (“CRIM”) is hereby established to assume a proportion of the climate-related risks to which eligible developing country Parties are exposed.
19. The Insurance Mechanism shall consist of two tiers: a Climate Insurance Pool (“CIP”), which shall cover a pre-defined proportion of high-level, climate-related risks of disaster losses, and a Climate Insurance Assistance Facility (“CIAF”), which shall provide technical support and other forms of assistance to enable

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regional private and public-private insurance systems for middle layers of climate-related risks.

20. Participation in the CRIM shall be based on the principles set out in this Article for financing and disbursing adaptation funds. The COP shall provide further guidance to the nature, rules and modalities of the CRIM in subsequent sessions.
21. The operational costs for the CRIM shall be covered by the Adaptation Board. Specifically, for Climate Insurance Pool the full premium shall be paid by resources allocated to the CRIM. The activities that vulnerable countries take as prevention and building public private partnerships for the middle layer of risk shall be supported as part of the implementation of their NAAS, where participation in the CRIM is indicated. By this the CIAF enables private financing for insurance and investment in insured activities.

*The proportion of pre-defined risk assumptions should be on a per country basis according to criteria to be agreed by the CMCP, including vulnerability and adaptive capacity and relative GDP losses rather than absolute dollars.*

22. The overall performance of the CRIM shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Protocol and be supervised by the Adaptation Board.

### COMPENSATION AND REHABILITATION MECHANISM

23. Recognising that climate change can only be limited and not all adverse impacts can be avoided, Parties underline the need to take action and support countries particularly affected by these impacts, based on the principle of common but differentiated responsibilities and respective capabilities.
24. Where such impacts can be dealt with nationally, Parties not included in Annex B may include necessary measures in their NAAS and obtain the respective resources out of their pre-allocated budgets, pursuant to paragraph 14.
25. For dealing with climate impacts where adaptation is no longer a viable option and which cannot be covered within a country but need international or cross-border co-operation (e.g. for some forms of migration), specific modalities for cooperation, finance and dispute settlement will be needed with a view to establishing an international Compensation and Rehabilitation Mechanism.
26. All Parties, under the coordination of the UN, shall work together to develop an appropriate mechanism as soon as possible.
27. The Conference of the Parties serving as the meeting of the Parties may provide further guidance on the procedures and modalities of a compensation and rehabilitation mechanism, as appropriate.

### NAIROBI WORK PROGRAMME

28. Given the continuous need for all Parties for further knowledge sharing and based on the valuable past experience, the NWP shall be extended. At subsequent meetings, SBSTA and SBI shall jointly develop a work programme for the next

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phase of the NWP, building on past experience and suggestions made by Parties, and taking into account the regular reviews of the activities.

29. Further activities under the NWP shall be financed, in particular by the Adaptation Board.

### MONITORING, REPORTING AND EVALUATION

30. Parties shall undertake a review of all matters relating to adaptation every three years, with a view to ensuring the effectiveness and adequacy thereof, and shall take the appropriate action. Submissions from observer organisations shall be considered as part of the review.
31. Activities supported through this Framework shall be subject to reporting and monitoring, including external monitoring, with the objective to support Parties in assessing progress towards developing effective adaptation strategies, to facilitate exchange and learning from each other's experience in implementing adaptation, to measure the effectiveness of activities carried out under this Framework and to ensure effective use of resources provided by the Adaptation Board. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall establish the modalities and procedures for the reporting and monitoring of adaptation activities at its first session, building upon the experiences from the national communications process.
32. The modalities and procedures for the review and monitoring shall be developed in a way that they ensure effectiveness and efficiency and that they minimise conflicts of interests at whatever level.
33. The costs for reviewing and monitoring shall be covered by the general operational budget of the Adaptation Board and not by the individual countries' allocations to avoid conflict of interests.
34. The Adaptation Board, with the assistance of the Adaptation Technical Panel, shall draft criteria for independent monitoring entities to be registered with the Adaptation Board who would report on, monitor and evaluate the implementation of activities undertaken under this framework. The Board shall forward these criteria to the Conference of the Parties serving as the meeting of the Parties for consideration and adoption. The Board shall also draft criteria and procedures for the certification of such monitoring entities.

## **Article 6 – Copenhagen Climate Facility**

1. A Copenhagen Climate Facility, hereinafter referred to as “the Facility”, is hereby established.

*To avoid dangerous climate change and build climate resilience, the way society is structured will need to change fundamentally - from investment patterns to development programs. This cannot be accomplished by the fragmented set of existing institutions. In order to enhance the implementation of the Convention in accordance with the Bali Action Plan and its four building blocks, a new institution, the Copenhagen Climate Facility (CCF), is needed.*

2. The Facility shall enjoy such legal capacity as is necessary for the exercise of its functions and the protection of its interests, in particular the capacity to enter into contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings in defense of its interests.
3. The Facility shall have:
  - a) an Executive Committee, as the supreme body of the Facility, to supervise and monitor the implementation of operational policies, guidelines and administrative arrangements, including the disbursement of resources;
  - b) At least four Boards to assist Parties in fulfilling their actions, aims, objectives and commitments, in accordance with the provisions of this Protocol, related to mitigation, adaptation, reducing emissions from deforestation and technology respectively;
  - c) A Committee for Reporting and Review to monitor and verify reporting from Parties submitted in accordance with Articles 3, 4 and 9 (ZCAPs, LCAPs, National Action Plans for REDD);
  - d) A Registry of nationally appropriate mitigation actions undertaken by Parties not included in Annex B and financial, technology and capacity building support activities undertaken by Parties included in Annex B; and
  - e) An Executive Secretary and such staff as shall be necessary for the Facility to carry out its functions.

### GOVERNANCE

4. The Facility shall function under the guidance and authority of, and be accountable to, the Conference of the Parties serving as the meeting of the Parties to this Protocol. The Committee for Reporting and Review shall function under the guidance and authority of, and be accountable to, the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol, through the Facility.

*The Committee needs to be accountable to both bodies (CMCP & CMKP) as its mandate covers reporting from all Parties.*

5. The Boards shall have decision-making power, including the allocation of funding and other support, over their respective area in accordance with the provisions of Articles 4, 5, 8 and 9. The Executive Committee may only review decisions of a Board in cases where the Board has exceeded its mandated functions pursuant to

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this Article and as may be elaborated on by the Conference of the Parties serving as the meeting of the Parties to this Protocol from time to time or as may be assigned to it by the Executive Committee.

6. The Executive Committee and its Boards shall each have equitable and balanced geographical representation, especially representation from Small Island Developing States and Least Developed Countries, as appropriate. Parties shall nominate members for the Executive Committee and its Boards and the Conference of the Parties serving as the meeting of the Parties shall appoint these members based on nominations received. Members shall serve in their personal capacities.
7. The Executive Committee and Boards may include representation from relevant intergovernmental and non-governmental stakeholders. The meetings of the Executive Committee and its Boards shall be open to attendance by, as observers, Parties to the Convention and accredited observer organizations and shall be webcast.
8. Decisions shall be taken by consensus whenever possible. If all efforts at consensus have been exhausted and no agreement reached, decisions may be adopted through voting. A one-member-one-vote rule shall be observed.
9. The Executive Committee and its Board may, individually or jointly, establish any expert groups, technical panels or sub-committees they deem necessary to support them in the pursuit of their functions. Expert groups, technical panels or sub-committees shall be coordinated by the Executive Committee or the respective Board they serve. Experts may be nominated from the public, private or non-profit sectors. Expert groups, technical panels or sub-committees may vary in size and composition taking into account the different expertise required by the tasks assigned to them by the various Boards or the Executive Committee. Participating experts shall serve in their personal capacity and shall have the requisite skills required for the task.
10. Specific operational policies and guidelines, the necessary legal arrangements and additional rules of procedure shall be developed and forwarded to, and appropriate action taken by, the Conference of the Parties serving as the meeting of the Parties, at its first session, and shall reflect the needs and requirements of each Board pursuant the provisions of this Protocol.

*Some of the governance modalities included in this Article reflect those of the Adaptation Fund Board. Any deviation from these modalities would represent a step backwards.*

### DOMESTIC INSTITUTIONS

11. Parties not included in Annex B shall designate one or more In-Country Coordinating Mechanism(s), including a National Climate Change Trust, to:
  - a) Submit and regularly update the reports and strategies in accordance with Articles 4, 5, 9 and 10;
  - b) Receive financial and other support from the Facility and other sources through the National Climate Change Trust;

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- c) Disburse financial support nationally and provide the financial accountability in line with international standards and those developed by the Facility for said support;
- d) Ensure that all relevant stakeholders are represented and allowed to participate, as appropriate, in the actions implemented in the country;
- e) Monitor carbon market activities within the country;
- f) Select domestic expert reviewers and coordinate the review of unilateral NAMA implementation, based on the guidelines adopted by the Conference of the Parties serving as the meeting of the Parties in accordance with Article 10, paragraphs 29 and 30; and
- g) Evaluate the implementation of the NAAS, pursuant to Article 5, paragraph 10.

The In-Country Mechanism(s) may request and the Copenhagen Climate Facility, through its Boards, shall provide advice on low-carbon development, adaptation, technology and reducing emissions from deforestation and forest degradation.

*The In-Country Coordinating Mechanism should be the domestic entit(y)(ies) that interacts with the Facility regarding financial, technology and capacity building support and oversees the country's reporting requirements. The specific modalities of the Mechanism should be decided upon by the country, with guidance by the Executive Committee, and will likely vary from country to country depending on their needs and level of capacity.*

*The National Climate Change Trust is the entity that shall receive any resources disbursed directly to the country from the Facility. The Trust should provide the requisite financial oversight of these funds in line with international standards and those developed by the Facility.*

### FUNDING WINDOWS

12. The Facility shall oversee and manage all financial resources raised through the means provided for in Article 7, taking into account paragraph 9 (Bilateral Support) of that Article.

Specifically:

- a) The Adaptation Board shall allocate funding apportioned to it pursuant to paragraph 13 to support the implementation of the Adaptation Action Framework, in particular through periodic grant installments for nationally-identified adaptation activities in Parties not included in Annex B in accordance with Article 5 (Adaptation). Priority shall be given to the needs of the Least Developed Countries, the Small Island Developing States, African countries prone to droughts, desertification and flooding, and other extremely poor and vulnerable countries;
- b) The REDD Board shall allocate funding apportioned to it pursuant to paragraph 13 for reducing emissions from deforestation and forest degradation in accordance with Article 9 (REDD);
- c) The Mitigation and Technology Boards shall allocate funding apportioned to them pursuant to paragraph 13 for supporting nationally appropriate mitigation action in Parties not included in Annex B and the Technology Action Programmes in accordance with paragraph 17 below and Article 8 (Technology). This funding window shall consist of two pillars: a Research,

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Development and Demonstration Pillar (for both mitigation and adaptation) and a Mitigation Technology Diffusion Pillar. The RD&D Pillar should provide grant financing for research, development and demonstration activities. Public, private and hybrid entities may be eligible for funding. The Diffusion Pillar should provide blended finance through a range of different instruments, including, but not limited to, grant financing and risk guarantees, in order to rapidly scale-up the use of existing and near market solutions. Parties included in Annex B shall contribute to the RD&D Pillar as part of their commitments under the Technology Development Objective in accordance with Article 8, paragraph 1. Resources for the Diffusion Pillar shall be provided pursuant to paragraph 13 below.

*RD&D and Diffusion should be thought of in a broad sense. RD&D is both about core research and applied measures. Diffusion is for both creating the enabling environment for diffusing technologies and supporting diffusion itself. For instance, policies and measures geared towards regulatory changes to improve building codes would be funded from the diffusion window as it supports the diffusion of energy efficient measures. It is anticipated that the majority of funding disbursed by the Mitigation Board would come from the Diffusion pillar. As Technology Action Programmes may have both a RD&D and diffusion component to them, the Technology Board should also have access to this funding window.*

The Executive Committee shall disburse funds based on the recommendations from the Boards.

13. For the first commitment period of this Protocol, the financial resources specified in paragraph 2 of Article 7 shall be apportioned as follows:
  - a) 56 billion USD per year for adaptation activities;
  - b) 7 billion USD per year for a multilateral insurance mechanism;
  - c) 42 billion USD per year for reducing emissions from deforestation; and
  - d) 55 billion USD per year for the technology diffusion and policies and measures through NAMAs.

Further resources raised shall be apportioned on the following basis: 40 per cent for adaptation activities, including insurance and 60 per cent for mitigation of which, for the purpose of the 2013-2017 commitment period, 25 per cent will go towards activities related to reducing emissions from deforestation and 35 percent will go towards technology diffusion activities. The Conference of the Parties serving as the meeting of the Parties may review and revise the apportionment for subsequent commitment periods.

*As REDD emissions will be successfully reduced and essentially eliminated over the 2020/2030 timeframe, it is assumed that the portion for REDD financing will decrease and the support for industrial GHG reductions through technology support will increase over time.*

14. The support provided by the Facility may take a number of forms, including but not limited to, grants or concessional loans and on an incremental or agreed full cost basis.

15. Transparent and fair eligibility criteria, in line with the provisions of this Protocol shall be developed and adopted by the Conference of the Parties serving as the meeting of the Parties at its first session. Eligible Parties, in a position to do so, shall be able to submit their proposals directly to the Boards or through implementing or executing entities, approved by the Facility and chosen by the eligible Party. Resources shall be disbursed to the National Climate Change Trusts referred to in paragraph 11. The Boards may also allocate and the Executive Committee may also disburse resources to public or private entities as well as non-governmental organizations. The Boards should allocate their resources in a manner that catalyzes, leverages and incentivizes additional private investments, where appropriate.

The Conference of the Parties serving as the meeting of the Parties shall, at its first session, adopt provisions to ensure the financial accountability of all supported actions. Regional centers may play a role in ensuring such accountability is met.

*Financial accountability provisions should be included in the Protocol. These provisions should be in line with current international standards and best practices.*

#### MITIGATION BOARD

16. The purpose of the Mitigation Board, provided for in paragraph 3, shall be to assist Parties in achieving their commitments and aims under Articles 3 and 4.
17. The Mitigation Board shall undertake the following functions and any other functions assigned to it by the Conference of the Parties serving as the meeting of the Parties:
- a) Maintain the Registry referred to in paragraph 3;
  - b) Review and assess the nationally appropriate mitigation actions which a Party not included in Annex B seeks international support in terms of financial, technology or capacity building;
  - c) Facilitate a matching forum in which nationally appropriate mitigation actions of Parties not included in Annex B are provided with financial, technological and capacity building support, including the allocation of funds;
  - d) Conduct an initial review of the Zero Carbon Action Plans of Parties included in Annex B referred to in Article 3, paragraph 6 and the Low Carbon Action Plans of Parties not included in Annex B referred to in Article 4, paragraphs 7 and 9; and
  - e) Forward its recommendations to the Executive Committee for adoption.
18. Pursuant to paragraph 17 sub-paragraphs (b) and (c), the Mitigation Board shall review all NAMAs, submitted in accordance with Article 4, paragraphs 4 and 5, as received or as part of the LCAP review provided for in Article 4, paragraph 10. The Board may initiate a dialogue with the Party concerned, as appropriate. The Board shall determine, on the basis of its assessment, the type and level of financial or technological support to be provided, if any.
19. The Board and the Party concerned shall agree upon the baseline for each action to be registered and the indicator(s) by which the success of the action should be measured.

*Baselines for each proposed supported action as well as indicator(s) by which the success of the action would be measured should be jointly agreed by the Mitigation Board and the country concerned (which should provide the initial baselines). Actions could be reviewed based on activities or outcomes (i.e. emission reductions). For instance, it may be more challenging to measure emission reductions associated with certain SD PAMs and thus a review based on the activities implemented may be a better approach. For some sectoral approaches, an outcomes/emission reduction basis may be easier or more appropriate. Whether actions should be reviewed on an activities or outcome basis should be decided a priori when deciding on the level of support to be provided.*

20. Nationally appropriate mitigation actions for which credits from emission reductions achieved may be sold on a carbon market and may be used for compliance with commitments under Article 3 of this Protocol or Article 3 of the Kyoto Protocol, hereinafter referred to as “credited mitigation actions” (“CMA”), shall be referred to the Carbon Market Regulatory Agency, pursuant to Article X, and shall meet the additional reporting and review requirements established by that Agency.
21. Pursuant to paragraph 17 sub-paragraph (d), all Zero Carbon Action Plans and Low Carbon Action Plans shall be reviewed initially by the Mitigation Board. For Parties included in Annex B, the purpose of the review is to ensure that the proposed policies and measures are in line with a Party’s emission reduction commitment under Article 3 of this Protocol or Article 3 of the Kyoto Protocol, the shared vision of the Copenhagen and Kyoto Protocols and its support obligations. For Parties not included in Annex B, the purpose of the review is to assist Parties in the development of robust plans to ensure they achieve low carbon development and to assess the contribution implementation of the proposed LCAP would make to staying within the carbon budget aim of Parties not included in Annex B, as a group, pursuant to Article 4, paragraph 2.

The Conference of the Parties on behalf of the Conference of the Parties serving as the meeting of the Parties shall develop separate guidelines for the review of the ZCAPs and LCAPs reflecting the differing purposes of the review.

*As the first reviews will take place in 2010, the COP needs to develop the guidelines.*

22. The Board shall complete an initial review of a Party’s Plan within three months of receiving that Plan. The Board may initiate a dialogue with the Party concerned. The Board shall publish its assessment, including concerns, requests for additional measures or actions to be taken and recommendations.
23. All Parties shall submit a revised version of their Plans no later than three months after the publication of the assessment referred to in paragraph 22, including information on how the Party has addressed the concerns, requests and recommendations made by the Board.
24. The Board shall complete its final review of a Party’s Plan within three months of receiving the revised version referred to in paragraph 23. A Plan shall be forwarded to the Facilitation Branch, provided for in Article 11, in instances

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where the Board determines that its concerns and requests were not adequately addressed.

*The first version of industrialized country ZCAPs are due on 1 March 2010. The first version of developing country LCAPs are due on 1 June 2010. The Mitigation Board should review all of these plans – though using different guidelines that reflect the different purposes of the reviews. Countries would then have the last quarter of 2010 to revise their plans in light of the comments received. Final plans for both industrialized and developing countries are due on 1 January 2011 in order to ensure enough time for ratification. The Mitigation Board will review these final versions. If it finds that the Party has not properly addressed all of its concerns it shall forward the situation, namely the “questions of concern”, to the Facilitative Branch.*

*The provisions for dealing with Facilitative Branch are in Article 11. Briefly, if outstanding issues remain after another dialogue with the Party concerned, the Facilitative Branch may issue a statement of concern. This applies to both industrialized and developing countries. In the case of industrialized countries, the Branch may also require the country concerned to post a bond representing a portion of the penalties a country would be required to pay in the case of non-compliance. If at the end of the commitment period, the country is in compliance, the bond is returned. If not, it is forfeited and the remainder of the penalty is due.*

25. The Mitigation Board shall consider any advice received from the Technology Board or its expert groups, technical panels or sub-committees regarding actions proposed in the Plans referred to in paragraph 21 and the level of ambition to be achieved through the Technology Action Programmes, and may also request such advice.

*It is very important that the Technology Board be allowed to input into the ZCAP/LCAP review so as to ensure that measures in the ZCAPs/LCAPs (which are bottom-up) will deliver the technology innovation outlined in the (global) Technology Action Programmes (which are top-down).*

*The roles and functions of the other Boards and the Committee on Reporting and Review are included under the respective Articles on Adaptation, Technology, REDD and MRV.*

## **Article 7 – Finance**

1. A massive scaling up of financial resources, from both the public and private sectors, is required in order to adequately, sufficiently and swiftly reduce anthropogenic GHG emissions, adapt to climate change and achieve the ultimate objective of the Convention and the shared vision. Developing country Parties will require significant, stable and predictable financial support from industrialized country Parties in order to fulfill their commitments under this Protocol.
2. Parties included in Annex B shall, as a group, provide at least 160 billion USD per year for the 2013-2017 commitment period as financial support to developing country Parties for their low carbon development, technology, adaptation and reducing emissions from deforestation efforts in line with Articles 4, 5, 8 and 9. Additional financing is required and shall be made available for the reporting requirements and capacity building efforts under this Protocol. The scale of resources required shall be reviewed for each subsequent commitment period.

*The CCF should oversee and manage all financial resources raised through the means outlined in this Article, with the exception of a certain proportion that should be allowed through bilateral or other multilateral initiatives (see paragraph 9 below). These other initiatives must meet established MRV criteria in order to count towards fulfillment of a Party's support obligations. The provisions for the funding window structure are provided for in the CCF Article.*

3. Auctioning of assigned amount units of all Parties included in Annex B shall be the primary means of raising the level of resources necessary, pursuant to paragraph 2, to support developing country Parties in achieving their aims and implementing actions under this Protocol. [Ten] per cent of the assigned amount units of each Party shall be auctioned per year of the 2013-2017 commitment period; this percentage should increase in each subsequent commitment period.

*This provision should also be included mutatis mutandis in the amendments to the Kyoto Protocol.*

4. The rules and modalities governing the auctioning process shall be adopted jointly by the Conference of the Parties serving as the meeting of the Parties to this Protocol and the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol. The rules and modalities shall consider, *inter alia*, the effect banking of assigned amount units from the first commitment period of the Kyoto Protocol may have on the price of assigned amount units obtained from auctioning and shall be flexible as per Parties' national circumstances. A certain degree of flexibility, including the percentage of assigned amount units, shall be allowed by the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol as amended to those Parties included in Annex I undergoing the transition to a market economy and other Parties for which flexibility would also be warranted.

*[10%] of the AAUs of industrialized countries should be auctioned to raise some of the financial resources required by developing countries for their mitigation and*

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*adaptation efforts. The CMCP & CMKP should be flexible in the design of the auctioning rules allowing for auctioning at the international or national level (with subsequent transfer of resources to the Copenhagen Climate Facility) depending on the national circumstances of Parties. Flexibility should also be shown for those countries, particularly some economies in transition or newly industrialized countries, for which the 10% figure would be significantly burdensome. These countries should be allowed to auction fewer AAUs in the first commitment period. Any differentiation of countries' auctioning amounts should be based on capacity to pay criteria, e.g. GDP per capita and in relation to their assessed amounts (see below). All countries currently listed in Annex II of the Convention must take on the [10%] amount.*

*Banking rules are relevant for determining the amount of AAUs that should be auctioned. The price of auctioned AAUs could be significantly reduced should countries decide to purchase the aggregate potential surplus of AAUs from the first commitment period (around 7.4 billion AAUs or about 4%).*

*This provision should also be included mutatis mutandis in the amendments to the Kyoto Protocol.*

5. Other means may also be used to raise financial resources to support developing country Parties in their efforts, including, but not limited to, a levy on aviation and maritime transport, pursuant to Article X (Aviation and maritime transport).

*A levy on aviation and maritime transport is envisioned as part of the Copenhagen Protocol (see Article X later in the text).*

6. Each Party included in Annex B shall be responsible for a portion, its assessed amount, of the financial resources required for the 2013-2017 commitment period, as outlined in paragraph 2. Responsibility shall be determined on the basis of the scale of assessments as outline in Annex C to this Protocol, taking into account a Party's historical responsibility and capacity to pay.

*Each industrialized country should be responsible for part of the 160 billion USD per year required to support action in developing countries as part of its binding obligations for the 2013-2017 commitment period. Fulfillment of each industrialized country's financial commitment would be measured, reported and verified in accordance with the provisions of Article 10.*

7. Means for which attribution to individual Parties included in Annex B is not possible or arising from contributions made by other Parties shall be subtracted from the overall level of financial resources outline in paragraph 2. The assessed amounts of Parties included in Annex B shall be adjusted accordingly while maintaining the portions established pursuant to paragraph 6.

Contributions by other Parties shall be encouraged.

*Some means, like a levy on international aviation, are not attributable to any one country. Resources raised through this means would be subtracted from the \$160 USD per year total. The remaining sum would be apportioned to countries using the*

*scale of assessed contributions outlined in Annex C. Other countries may also contribute resources; these would similarly be subtracted from the total.*

8. If the means outlined in paragraphs 3 and 5 of this Article are insufficient to raise the level of resources required, pursuant to paragraph 2, and to fulfill a Party's assessed amount, a Party included in Annex B shall contribute the difference to the Copenhagen Climate Facility or through bilateral or other multilateral means in accordance with paragraph 9 in order to fulfill its obligation under paragraph 6.

*If the 10% auctioning of AAs and the levies on international transport prove insufficient to raise the level of financing required, industrialized countries would be required to make up the difference in order to ensure that developing countries receive the stable, consistent and predictable financial resources they need to assist them in fulfilling their obligations. This would either involve additional auctioning of AAs, over and above the usual 10%, or MRVed contributions from other sources.*

9. Bilateral and, in particular cases agreed by a decision of the Conference of the Parties serving as the meeting of the Parties, regional or other multilateral cooperation may, up to a maximum of [x] per cent be considered part of a Party's assessed amount provided that such cooperation is in accordance with criteria to be adopted by the Conference of the Parties serving as the meeting of the Parties at its first session. Resources not in accordance with these criteria shall not contribute to the fulfillment of the obligations contained in paragraph 6.

A Party included in Annex B may only use overseas development aid to fulfill its financial obligations under the following circumstances. After 2015, new and additional financing is defined as any resources above 0.7% of a Party's GDP, pursuant to industrialized country Parties' obligations under the Millennium Development Goals. Prior to 2015, new and additional financing is defined as any resources above the linear growth path between a Party's present ODA contribution and the 0.7% goal to be achieved in 2015. 'Present' is defined as the average ODA contribution made by the Party between the years 2006 and 2008.

Financial resources that support or in any way contribute to activities related to nuclear energy shall not contribute towards the fulfillment of a Party's financial obligations.

*A portion of an industrialized country's assessed amount could be met through bilateral or other multilateral initiatives up to a maximum amount and so long as it was in accordance with the criteria developed to measure such financial flows (particularly governance criteria). These bilateral initiatives would also need to be reported and verified using in the same manner as fulfillment of a Party's other support obligations.*

*The Multilateral Fund for the Implementation of the Montreal Protocol has a similar bilateral provision.*

## **Article 8 – Technology Cooperation**

1. Parties shall be guided by a Technology Development Objective to shift the world onto an equitable low-carbon development path. Meeting this Objective will be key to ensuring that Parties respect and stay within the global carbon budget specified in paragraph 2 of Article 2. To meet this Objective, all Parties shall promote, facilitate, cooperate on, and finance, as appropriate, the development, deployment, transfer, diffusion or access to environmentally sound mitigation and adaptation technologies and know-how, in accordance with their national circumstances. Specifically, Parties shall seek, *inter alia*, to:
  - a) At least double financing for mitigation and adaptation related research, development and demonstration by 2012, increasing it to at least four times its current level by 2020. Part of this new financing should support bilateral and multilateral cooperative efforts, including the research, development and demonstration pillar of the technology funding window of the Copenhagen Climate Facility, referred to in Article 6, paragraph 12, particularly between industrialized and developing countries and among developing countries themselves;
  - b) Obtain at least two thirds of the world’s primary energy demand from renewable energy sources by 2050, with the mid-term goal of achieving at least 20 per cent by 2020;
  - c) Improve the average energy intensity of the global economy by 2.5 per cent per year until 2050;
  - d) Secure access to modern energy services for all people by 2025, without locking them into a high GHG intensity development path; and
  - e) [...].

The Conference of the Parties serving as the meeting of the Parties to this Protocol may elaborate on the Technology Development Objective as necessary.

*Support for technology cooperation and diffusion needs to be rapidly expanded in order to meet the mitigation and adaptation challenges posed by climate change – nothing less than a climate friendly technology revolution is needed. A robust and comprehensive approach is necessary in order to correct market failures, provide support along the entire technology innovation chain and make modern energy services available to all. This approach should leverage public and private finance to spur innovation and technology cooperation.*

*To address the need for rapid technology development and diffusion in the near-term the Parties should agree on a Technology Development Objective. We have outlined the minimum the Objective should include above.*

2. The Technology Board, provided for in paragraph 3 of Article 6, shall undertake the following functions in accordance with the Technology Development Objective and any other functions assigned to it by the Conference of the Parties serving as the meeting of the Parties:
  - a) Develop, co-ordinate, support, implement, monitor and review progress on a defined set of Technology Action Programmes, pursuant to paragraph 3, adopted by the Conference of the Parties serving as the meeting of the Parties,

- including the allocation of funds from the Technology window provided for in paragraphs 12 and 13 of Article 6;
- b) Provide advice to the Mitigation and Adaptation Boards, particularly during their respective reviews of the Zero-Carbon and Low Carbon Action Plans, pursuant to paragraph 21 of Article 6 and National Adaptation Action Strategies, pursuant to paragraph 9 of Article 5;
  - c) Coordinate with, engage with and facilitate information sharing between Parties, international organizations, the private sector and other relevant stakeholders.
  - d) Forward its recommendations to the Executive Committee for adoption.

The Technology Board may provide guidance to the In-Country Coordinating Mechanism(s) provided for in paragraph 11 of Article 6, as requested.

3. Each Technology Action Programme shall be global in nature and focus on the development, demonstration and diffusion of certain key mitigation and adaptation technology areas, and include, *inter alia*:
  - a) Capacity building in developing countries for research, development, demonstration and diffusion, including enhancing enabling conditions and absorptive capacity; and
  - b) Transfer of skills and know-how; technology information, technological goods and equipment.

No Technology Action Programme shall be developed for any unsustainable technology, particularly and especially nuclear energy-related technology.

*Technology Action Programmes (TAPs) are top-down and global, Low Carbon Action Plans (LCAPs) and Zero Carbon Action Plans (ZCAPs) are bottom-up and national; when read together the three should ensure that the world is on track to meet the global carbon budget.*

*We envisage about 20 TAPs would be developed for key technologies. Strategic prioritization of certain technologies is necessary in order to spur innovation, stay within the carbon budget and avoid dangerous climate change. The CMCP would decide upon the key technologies and the general parameters of the Action Programmes, while the Tech Board would elaborate the details in line with those guidelines and the Objective.*

4. An expert group shall be established, in accordance with paragraph 9 of Article 6, for each Technology Action Programme to advise the Board during the development and subsequent review of that specific Programme. The Technology Action Programmes may be informed by technology needs assessments of developing country Parties, Parties' Zero Carbon and Low Carbon Action Plans, existing international and national technology roadmaps and other relevant material. Where intellectual property rights prove to be a barrier to technology deployment, diffusion and transfer, the Technology Action Programme shall include initiatives to reduce and eliminate these barriers, in accordance with paragraph 6 below. The Technology Action Programmes shall be reviewed by the Technology Board every 5 years and the appropriate action taken.

5. Regional centers may assist in the implementation of the Technology Development Objective and specific Technology Action Programmes, including providing financial accountability in accordance with paragraph 15 of Article 6 for support received by the center or those Parties the center is working with from the Copenhagen Climate Facility.
6. In relation to intellectual property rights for low carbon and adaptation technologies, Parties shall abide by the principle of ‘protect and share’. In accordance with this principle, Parties shall undertake measures to encourage patent sharing, joint ventures and public-private partnerships and initiatives to the extent possible, in order to increase accessibility to key environmentally sound technologies that are protected by intellectual property rights, while strengthening incentives for research and development through intellectual property right protection. The Technology Board shall undertake initiatives to eliminate intellectual property rights as a barrier to technology deployment, diffusion and transfer beyond those encountered in the development and implementation of the Technology Action Programmes.

*Where IPRs are a barrier increased access to technologies could be provided by establishing a clear framework for using existing mechanisms such as patent buyouts, patent pools (including patent libraries), compulsory licensing, segmented markets and Global Commons measures.*

## **Article 9 – Reducing Emissions from Deforestation and Forest Degradation**

### EMISSION REDUCTION AIMS

1. Reducing emissions from deforestation and forest degradation is necessary to achieve the ultimate objective of the Convention, the shared vision and to stay within the global carbon budget. The vast majority of gross emissions from deforestation and forest degradation in Parties not included in Annex B shall be eliminated by 2020, with a view to eliminating nearly all human induced forest emissions by 2030, in a manner that protects biodiversity and fully respects the rights of local and indigenous peoples.

*A specific REDD target should be set to drive the level of ambition of activities and to ensure that the overall carbon budget is respected. Emissions from land-use change should be kept to no more than 1 Gt CO<sub>2</sub>e in 2020 and brought down to zero by 2030 at the latest.*

2. All Parties shall develop and implement strategies, programs, policies and measures to address the underlying causes and drivers of deforestation. All Parties shall undertake nationally appropriate actions and sustainable development policies and measures to address and reduce GHG emissions, and seek to minimize the international displacement of emissions, from deforestation and forest degradation, taking into account Parties' differing circumstances, responsibilities, capabilities and needs.

*As the drivers of deforestation are complex, interlinked and often global in nature, this provision creates a general obligation on the part of all parties to take efforts to reduce deforestation, even if tropical deforestation is not occurring within their territory (for instance, parties could adopt measures related to the international timber trade).*

3. Parties not included in Annex B shall aim to reduce GHG emissions from deforestation and forest degradation against a national reference emission level in accordance with their national circumstances with a view to ensuring the goals specified in paragraph 1 are met and shall be supported in their efforts as provided for in paragraph 4.
4. Parties included in Annex B shall provide, through the Copenhagen Climate Facility, pursuant to their obligation in Article 7, paragraph 2 (Finance), adequate financial resources and other support to ensure that all Parties may fulfill their commitments under paragraphs 1, 2 and 3 of this Article.

*This paragraph reiterates the general MRV support obligation of industrialized countries in the REDD context. If Parties are serious about reducing deforestation and forest degradation and its associated emissions, significant resources will be required, including financing, technology and capacity building, to assist in achieving this aim. As outlined in the Finance Article, industrialized countries should provide at least 42 billion USD per year to support REDD activities, with the urgent need for immediate funding to build capacity to enable developing countries to meet a high*

*level of MRV and to implement effective national REDD strategies. The vast majority of funding for REDD during the 2013-2017 period should come from market-linked sources such as auctioning revenues.*

#### REDD BOARD

5. A mechanism to reduce emissions from deforestation and forest degradation (“REDD”) is hereby established. The mechanism shall be supervised and managed by the REDD Board.
6. The REDD Board, provided for in Article 6, paragraph 3, shall undertake the following functions and any other functions assigned to it by the Conference of the Parties serving as the meeting of the Parties:
  - a) Allocate financing from the funding window referred to in Article 6, paragraph 12 to support reducing emissions from deforestation and forest degradation in Parties not included in Annex B, in line with the provisions of this Article and on the basis of National Action Plans for REDD. Financial support and other incentives may be provided for the following:
    - i) National level emission reductions against a historic baseline, pursuant to paragraph 12, including direct financing for sub-national actions consistent with paragraph 11;
    - ii) The implementation of, and measurable progress towards, achieving objectives identified in the National Action Plans on REDD, including, *inter alia*, actions that successfully limit the international displacement of these emissions and prevent increases in future emissions in developing country Parties not included in Annex B with low historic rates of deforestation and degradation but with forests at significant risk of deforestation, and performance-based results that achieve mitigation objectives through the use of readily available proxies (such as deforestation rates, presence of infrastructure, such as roads, or the cancellation of concessions); and
    - iii) Capacity building efforts, now, up to and beyond 2012, to develop institutional arrangements to measure, monitor, report and verify reductions in GHG emissions or, on a transitional basis, the deforested and forest degraded area.

*REDD initiatives will require significant amounts of up-front financing to support building institutional and technical capacity. (As the CDM has shown, market-based financing will not provide this capacity building). While the Board would primarily provide payment for emission reductions achieved after ex post verification, the Board could also provide up-front financing on the basis of the National Action Plans as well as for activities that achieve mitigation objectives and prevent the international displacement of these emissions. While developing national approaches, public financing should be used to support early action pilot activities at the sub-national level as well as capacity building. Measures should be put in place to ensure transparency and accountability of such financing.*

- b) Assist in the development of the National Action Plans on REDD, including the establishment of reference emission levels;

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- c) Assist in the monitoring and review of the implementation of the Plans by the Committee on Reporting and Review, referred to in Article 6, paragraph 3, pursuant to the provisions of Article 10 (MRV);
- d) Forward its recommendations to the Executive Committee for adoption;
- e) Monitor and enforce the provisions referred to in paragraph 13 (Indigenous rights) and 14 (Biodiversity protection), including, *inter alia*, through the creation and maintenance of an independent office of the ombudsman to oversee complaints;

*An Independent Ombudsman position should be created to monitor compliance with international standards, as standards without a means to monitor them are meaningless.*

- f) Develop and approve independent conflict-resolution mechanism(s) to address any conflicts which might arise between governments, communities and other stakeholders; and

*An appeals/arbitral mechanism for countries and others seeking to review decisions of the Board will minimize conflict and increase transparency. This mechanism would address conflicts among and within Parties. The interplay between an international mechanism and these domestic mechanisms would need to be decided upon. The role of the ombudsman could be expanded to include some of these functions.*

- g) Facilitate information sharing between Parties and other relevant stakeholders.

Any further functions assigned to the Board must ensure stability, equity, effectiveness and environmental integrity of the Convention and its Protocols and be consistent with the ultimate objective of the Convention and the shared vision of this Protocol.

### REPORTING AND REVIEW

7. Parties not included in Annex B wishing to avail themselves of financial and other support relating to this Article to assist in their strategies, programs, policies, measures and activities to reduce emissions from deforestation and forest degradation shall develop a National Action Plan for REDD. Parties not included in Annex B required to develop a Low Carbon Action Plan, pursuant to Article 4, paragraph 9 shall develop a National Action Plan for REDD and shall incorporate the Plan into their Low Carbon Action Plans. Parties not included in Annex B choosing to produce Low Carbon Action Plans pursuant to Article 4, paragraph 7 are encourage to integrate their National Action Plans for REDD into these Plans. All Plans shall outline the strategies, programs, policies and measures and activities a Party plans to undertake to address the direct and underlying causes of deforestation and therefore reduce its emissions from deforestation and forest degradation. The Plan shall also outline how a Party shall observe the standards referred to in paragraphs 13 and 14 and be in line with its National Biodiversity Strategy and Action Plan, if available.

*The National Action Plan should outline the various areas in which the country plans to undertake measures to address the direct and underlying causes, such as policies to*

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*reduce land conversion (through e.g. increasing opportunities for off-farm employment), improving forest monitoring and governance, clarifying land tenure rights, improving infrastructure planning (e.g. road-intensive rather than extensive development), removing perverse policy and tax incentives and so on. The Plans should also indicate areas in which they would welcome investment and involvement by sub-national actors, if any. Finally, countries must outline how these activities will conform to provisions to ensure the protection of biodiversity and the rights of indigenous and forest peoples.*

*Countries choosing or required to develop an LCAP should include their National Action Plans for REDD as part of their more comprehensive LCAP. All other countries, who may not have the capacity to complete an LCAP, but wishing to access REDD financing, must at least develop a National Action Plan for REDD as well.*

8. The REDD Board shall review all Plans submitted in accordance with paragraph 7. The Board may initiate a dialogue with the Party concerned, as appropriate. The Board shall determine, on the basis of its assessment, the type and level of support to be provided in accordance with paragraph 6, sub-paragraph (a). The review process should follow the procedures of the LCAP review provided for in Article 6, as appropriate.
9. Parties not included in Annex B shall report on their reductions in emissions from deforestation and forest degradation on a biennial basis in line with the provisions of paragraphs 11 and 12 (Methodology) and as part of their enhanced national communications in accordance with the provisions of Article 10 (MRV). The Committee on Reporting and Review, referred to in Article 6, paragraph 3, shall review these reports in accordance with the provisions of Article 10. The REDD Board may assist the Committee in its reviews.

*The stringency of reporting requirements should be a function of a Party's technical capacity. The financial incentives provided for emission reductions achieved should be a function of how robust the reductions are likely to be given Parties' differing capacities.*

10. The Conference of the Parties serving as the meeting of the Parties shall, at its first session, develop and adopt modalities to address instances in which a Party's emissions from deforestation and forest degradation increase subsequent to receiving financial support for the reduction of emissions.

*The liability of Parties for subsequent increases in their emissions should be proportional to their technical capacity (and thus the level of payment received for reductions). An insurance scheme is one method that is worth exploring further.*

### METHODOLOGY

11. National approaches, including, but not limited to, national-level accounting, regulatory frameworks, reference emission levels, monitoring and enforcement systems, shall be adopted by participating Parties not included in Annex B in order to address domestic leakage, ensure the integrity of baselines and improve the cost-effectiveness of REDD activities. Sub-national actors undertaking sub-

national activities, where deemed appropriate by the participating Party, may be allowed within the national-level accounting framework.

*National approaches are necessary to address the issues of leakage, additionality and permanence. If allowed by the participating developing country Parties, sub-national actors may participate in the mechanism, however payment should be determined on the basis of national-level emissions. The Board may pay sub-national actors directly to ensure equitable benefit sharing. The modalities for determining the level of payment for such activities within the context of the national emissions framework needs to be determined.*

12. The Intergovernmental Panel on Climate Change guidelines shall inform the development of standards to measure, report and verify emission reductions by the Conference of the Parties serving as the meeting of the Parties. The Intergovernmental Panel on Climate Change shall develop further guidance related to biome-based definitions for forests. In accounting for emission reductions, incentives should be provided for reductions of gross emissions based on a national reference emission level.

#### SAFEGUARDING BIODIVERSITY & LOCAL AND INDIGENOUS RIGHTS

13. All strategies, programs, policies, measures and activities undertaken pursuant to this Article shall be fully consistent with the United Nations Declaration on the Rights of Indigenous Peoples, ILO Convention 169 and specifically recognize and respect the rights of indigenous peoples to their lands and territories, not to be displaced there from, their social, economic or religious uses of the forest, and their right to choose their own development.

The Conference of the Parties serving as the meeting of the Parties shall, at its first session, adopt rules, modalities and standards for ensuring the full and effective participation of all relevant stakeholders and to protect the rights of indigenous peoples and local communities, including, *inter alia*:

- i) Ensuring the free prior and informed consent of indigenous peoples and local communities in all stages of decision making and implementation;
- ii) Ensuring equitable benefit sharing, especially with regard to indigenous peoples and local communities, through, *inter alia*, the ability of the Board to disburse resources to private entities, as necessary and appropriate;
- iii) Securing representation of indigenous peoples and local communities on the Board.

*It is the sovereign prerogative to decide how to address REDD, however if countries chose to access international financial support for these activities they should be required to meet international standards to protect biodiversity and the rights of indigenous peoples and vulnerable communities. There can be no justification for mandating international standards for measuring GHG reductions, but not the latter. The failure of the CDM to create large sustainable development benefits for developing countries due to the lack of standards is a key lesson to be learned here.*

14. All strategies, programs, policies, measures and activities undertaken pursuant to this Article shall be fully consistent with the Convention on Biological Diversity and shall contribute to the conservation of biological diversity. REDD activities

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shall encourage retention of carbon in natural forests, especially those of high conservation value, and exclude the conversion of natural forests to industrial forests or plantations. The Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol shall, at its first session, adopt rules, modalities and standards for ensuring the protection of biological diversity.

*The rationale for standards is the same as the above paragraph.*

## **Article 10 – Measuring, Reporting and Verifying Efforts**

### NATIONAL SYSTEMS

1. Each Party included in Annex B to **this Protocol** shall have in place, no later than one year prior to the start of the 2013-2017 commitment period, a national system for the estimation of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol. All relevant provisions of the Kyoto Protocol and the elaboration of these provisions in decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, including the Marrakech Accords shall apply *mutatis mutandis* to the provisions of this paragraph. Any future revision to the guidelines referred to in paragraph 1 of Article 5 of the Kyoto Protocol shall be jointly agreed upon by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and to this Protocol.

*This paragraph mirrors that of Article 5.1 of the Kyoto Protocol. The US and the Newly Industrialized Countries should be required to develop national systems under the same rules of the Kyoto AI Parties. Any future revisions of the guidelines for national systems should be jointly agreed by both the CMCP and the CMKP.*

2. Each Party not included in Annex B required to submit an LCAP pursuant to paragraph 9 of Article 4 shall have in place, no later than six months prior to the start of the 2013-2017 period, a national system, including the establishment of national baselines, for the estimation of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol. Guidelines for such national systems shall be based on the methodologies, procedures and approaches specified in the Kyoto Protocol to the extent possible and taking into consideration the common but differentiated responsibilities and capacities of Parties and shall be decided upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session.

*To the extent possible, the advanced developing countries should put into place national systems similar to those of industrialized countries.*

3. A Party not included in Annex B that is not covered by the provisions of paragraph 2 may put in place a national system, including the establishment of national baselines, for the estimation of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol and is encouraged to do so.
4. Methodologies for estimating anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol shall be those accepted by the Intergovernmental Panel on Climate Change and agreed upon jointly by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session and the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its corresponding session. Where such methodologies are not used, appropriate adjustments shall be applied according to methodologies agreed upon jointly by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session and the

Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its corresponding session. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol shall jointly and regularly review and, as appropriate, revise such methodologies and adjustments, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to methodologies or adjustments shall be used only for the purposes of ascertaining compliance with commitments under Article 3 of this Protocol or the Kyoto Protocol in respect of any commitment period adopted subsequent to that revision.

*This paragraph mirrors that of KP Article 5.2. Countries should agree on the methodologies ideally at COP15 or soon there after. These methodologies should apply across the Copenhagen and Kyoto Protocols. Any revisions to the methodologies should be agreed jointly by the CMCP and CMKP.*

5. The global warming potentials used to calculate the carbon dioxide equivalent of anthropogenic emissions by sources and removals by sinks of greenhouse gases listed in Annex A shall be those accepted by the Intergovernmental Panel on Climate Change in its Fourth Assessment Report and agreed upon jointly by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session and the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its corresponding session. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol shall jointly and regularly review and, as appropriate, revise the global warming potential of each such greenhouse gases, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to a global warming potential shall apply only to commitments under Article 3 of this Protocol or the Kyoto Protocol in respect of any commitment period adopted subsequent to that revision.

*This paragraph mirrors that of KP Article 5.3. Countries should agree on the GWPs ideally at COP15 or soon there after. These GWPs should apply across the Copenhagen and Kyoto Protocols. Any revisions to the GWPs should be agreed jointly by the CMCP and CMKP.*

#### NATIONAL REGISTRY

6. Each Party included in Annex B of this Protocol shall have in place, no later than one year prior to the start of the 2013-2017 commitment period, a national registry to accurately account for the issuance, holding, transfer, acquisition, cancellation and retirement of any emissions unit established under the Kyoto Protocol or this Protocol. All relevant provisions of the Kyoto Protocol as amended and the elaboration of these provisions in decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, including the Marrakech Accords shall apply *mutatis mutandis* to the provisions of this paragraph.

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*The US and the Newly Industrialized Countries should be required to develop a national registry based on the rules for modalities for accounting assigned amounts under KP Art. 7.4.*

### GHG INVENTORIES

7. Each Party included in Annex B to **this Protocol** shall incorporate in its annual inventory of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol and in its national communication, submitted under Article 12 of the Convention, the necessary supplementary information for the purposes of ensuring compliance with its commitments under this Protocol, in accordance with *mutatis mutandis* the relevant provisions of the Kyoto Protocol and the elaboration of these provisions in decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, including the Marrakech Accords.

*The US and the Newly Industrialized Countries should be required to submit annual GHG inventories under the same provisions of the Kyoto AI Parties.*

8. The Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol shall jointly periodically review and, as appropriate, revise the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol and paragraphs 6 and 7 of this Article and the modalities for the accounting of assigned amounts.

*Any changes to the KP Article 7 rules should be agreed jointly by the CMCP and CMKP.*

9. Each Party not included in Annex B, required to submit an LCAP pursuant to paragraph 9 of Article 4, shall incorporate in its inventory of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol the necessary supplementary information for the purposes of measuring progress with respect to Articles 4, 9 and 10 and any sectoral crediting. Inventories shall be submitted biennially.

The Parties may choose which sectors listed in Annex A the inventory should cover. Only those sectors included in the national inventory will be eligible for sector-wide support initiatives under the Registry referred to in paragraph 3 of Article 6 or sectoral market mechanisms.

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall adopt, at its first session, and review periodically thereafter, guidelines for the preparation of the information required under this paragraph.

*Ideally the inventories for advanced developing countries would be comprehensive and include all sectors. However at least those sectors for which LCAP support or sectoral market mechanisms are pursued should be included. The purpose of biennial inventory submission is to build trust amongst Parties as to the state of emissions and to build the capacity of advanced developing countries to report robustly.*

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*The guidelines developed should be modeled after those used for industrialized countries as much as possible.*

10. A Party not included in Annex B that is not covered by paragraphs 9 and 11 shall submit its inventory of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol once every three years. The guidelines adopted under paragraph 9 shall apply *mutatis mutandis*.

*Other developing countries should submit inventories every three years - with increased frequency over time; again as a trust building exercise. This represents a more rapid timeline than the current reporting regime.*

11. Least developed country Parties may submit their inventories of anthropogenic emissions by sources and removal by sinks of greenhouse gases not controlled by the Montreal Protocol at their discretion. The guidelines adopted under paragraph 9 shall apply *mutatis mutandis*.

### REPORTING ON ZCAP IMPLEMENTATION

12. Each Party included in Annex B shall incorporate in its national communication, submitted under Article 12 of the Convention, the supplementary information necessary to demonstrate compliance with its commitments under Article 3 of this Protocol or the Kyoto Protocol and its obligation to provide financial, technological and capacity building support to developing countries in a measurable, reportable and verifiable way. Each Party shall submit its national communication including the supplementary information biennially.
13. Supplementary information to measure compliance commitments under Articles 3, 5, 8 and 9 of this Protocol or the Kyoto Protocol shall include, but are not limited to, the following:
  - a) A quantitative estimate of the effects of implemented policies and measures, individually and collectively;
  - b) An assessment of the reported policies and measures and past and projected GHG emissions trends for 2015, 2020, 2030, 2040 and 2050, including scenarios without measures, scenarios with measures and with additional measures;
  - c) A summary of the action taken to achieve the timely investments required for an economy-wide transformation to a zero carbon sustainable development path;
  - d) A summary of action taken to build climate resilience and adapt to the impacts of climate change in accordance with Article 5 (Adaptation);
  - e) A summary of the action taken pursuant to the Technology Development Objective and its Technology Action Programmes in accordance with Article 8 (Technology); and
  - f) A summary of the action taken pursuant to Article 9 (REDD).
14. Supplementary information to measure compliance with support obligations shall include, but are not limited to, the following:
  - i) An account of a Party's contributions to date in accordance with its assessed amount specified in Annex C, including the amount of financial resources

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transferred to the Copenhagen Climate Facility and bilateral or other multilateral initiatives, if any; (Financial support obligation)  
*Financial resources may be transferred to the Facility in cases of domestic auctioning or if the corrective mechanism mandates further financial resources be contributed in order for each Party to reach its assessed amount (i.e. in instances where auctioning and levies on maritime and aviation transport were not sufficient achieve the 160 billion USD financial obligation).*

- ii) The amount of financial resources transferred to the RD&D pillar of the technology funding window of the Copenhagen Climate Facility; (Joint RD&D support obligation);
- iii) Information and the financial amount of other cooperative RD&D activities;
- iv) The amount of financial resources provided to support the reporting activities of developing countries and the establishment of national systems; and (LCAP reporting, GHG inventories, national systems obligation)
- v) Information to demonstrate that all financial resources provided were new and additional.

A set of performance indicators shall be developed and adopted by the Conference of the Parties serving as the meeting of the Parties, at its first session, to assist in measuring compliance with the above obligations. Biennial reporting shall provide up-to-date information on these indicators. Reporting on these indicators and other relevant information shall be included as part of the final submission of Parties included in Annex B at the end of a commitment period.

*Biennial reporting should be based on a set of indicators (levels of financing, technology cooperation programs, etc) and a brief narrative. The final report on which compliance will be assessed should include a longer narrative on a Parties' actions. The tables currently included in Parties' national communications are insufficient for this task and need to be elaborated upon significantly.*

15. The Conference of the Parties serving as the meeting of the Parties shall adopt at its first session, and review periodically thereafter, guidelines for the preparation of the information required under paragraphs 13 and 14, taking into account guidelines for the preparation of national communications by the Parties included in Annex I adopted by the Conference of the Parties.

### REPORTING ON NAMA/LCAP IMPLEMENTATION

16. Each Party not included in Annex B shall incorporate in its national communication, submitted under Article 12 of the Convention, the supplementary information necessary to demonstrate the implementation of all of their registered nationally appropriate mitigation actions. This supplementary information should be based on the indicator(s) by which the success of each action would be measured as jointly agreed by the Party concerned and the Mitigation Board pursuant to paragraph 19 of Article 6 or the REDD Board pursuant to paragraph 8 of Article 9, as appropriate. Each Party shall submit its national communication including the supplementary information biennially.
17. Each Party not included in Annex B required to submit an LCAP pursuant to paragraph 9 of Article 4 shall incorporate in its national communication, submitted under Article 12 of the Convention, the supplementary information

necessary to demonstrate the implementation of its registered nationally appropriate mitigation actions as specified in paragraph 16 above and the implementation of its LCAP. This supplementary information shall also include:

- a) An estimation of the Party's contribution to date to the overall mitigation aim for Parties not included in Annex B specified in paragraph 2 of Article 4;
- b) Further details on action being implemented in all major emitting sectors; and
- c) An assessment of those actions implemented, the results achieved and the Party's national emissions pathway for 2030 and 2050.

Each Party shall also submit its national communication, including the supplementary information required under this paragraph and paragraph 16, biennially.

18. The Conference of the Parties serving as the meeting of the Parties shall adopt at its first session, and review periodically thereafter, guidelines for the preparation of the information required under paragraphs 16 and 17, taking into account guidelines for the preparation of national communications by the Parties not included in Annex I adopted by the Conference of the Parties.

*Reporting on the implementation of adaptation activities is dealt with under the Adaptation Article.*

*Note that while both industrialized and developing countries have to report on a biennial basis – the material reported and the guidelines for that reporting are entirely different.*

#### FINANCIAL SUPPORT FOR DEVELOPING COUNTRY REPORTING

19. Parties included in Annex B shall provide, on an agreed full cost basis, adequate financial support to enable all Parties not included in Annex B to undertake the activities and submit the reports specified in paragraphs 2, 3, 9, 10, 11, 16 and 17, whether such activities or reports are required or encouraged.

#### COMMITTEE FOR REPORTING AND REVIEW

20. The Committee for Reporting and Review (“the Committee”) shall undertake the following functions and any other functions assigned to it by the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol:

- a) Coordinate the reviews by expert review teams for:
  - i. Annual GHG inventories of Parties included in Annex B;
  - ii. Biennial or otherwise GHG inventories of Parties not included in Annex B;
- b) Conduct the reviews for:
  - i. Biennial ZCAP reporting through the national communication process of Parties included in Annex B pursuant to paragraph 12;
  - ii. Biennial LCAP reporting through the national communication process of Parties not included in Annex B pursuant to paragraph 17;
  - iii. Individual NAMA reporting pursuant to paragraph 16, for applicable Parties;
  - iv. The inventories referred to in sub-paragraph (a) under the conditions provided for in paragraph 23 below;

- c) Coordinate the assessment by expert review teams at the end of the 2013-2017 period of the actions undertaken and the results achieved by Parties not included in Annex B, as a group, in light of the carbon budget specified in paragraph 2 of Article 4;
- d) Conduct training programmes for both domestic and international expert reviewers;
- e) Forward reports of the reviews to the Conference of the Parties serving as the meeting of the Parties to this Protocol or the Kyoto Protocol as appropriate and to the Facilitative Branch as may be required under the provisions of this Article; and
- f) Report annually to the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol.

21. Members of the Committee shall be experts with extensive experience in the preparation of greenhouse gas inventories, the management of national institutional arrangements for greenhouse gas inventory preparation, emission scenario development or trend analysis and/or the development and implementation of sustainable development policies and measures. Members of the Committee shall be permanent staff of the Facility. Members shall be appointed to the Committee jointly by the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol upon recommendation by the Executive Secretary of the Facility.

*The current capacity of the secretariat and the expert review teams is severely limited. This permanent committee should alleviate some of those constraints. By having a permanent staff of experts it will be able to undertake some of the reviews itself on the basis of guidelines agreed by the CMCP/CMKP. It will also have the in-house capacity to train more expert reviewers and more staff generally to coordinate the reviews. There is still a role for expert review teams, but only to review the more sensitive matters as outlined in paragraph 23 below.*

22. Expert review teams shall be coordinated by the Committee and shall be composed of experts selected from those nominated by Parties to the Convention and, as appropriate, by intergovernmental organizations, in accordance with the guidance provided for this purpose by the Conference of the Parties.

*This paragraph mirrors KP Art. 8.2.*

#### STREAMLINING THE REVIEW PROCESS

23. The expert review teams shall review the greenhouse gas inventories submitted in accordance with paragraphs 7, 9, 10 and 11 at least once per commitment period for those submitted annually or biennially as well as the final inventory submitted for that commitment period. The expert review team may review inventories submitted in other years or may request that the Committee undertake those reviews. All greenhouse gas inventories submitted in accordance with paragraphs 7, 9, 10 and 11 shall be reviewed.

The expert review teams may request that the Committee undertake the review when the two previous reviews have raised no questions of implementations and the team has made no substantive and significant recommendations for

improvements. The expert review team may also choose to review only one section of the inventory and request that the Committee complete the review of the remaining sections provided that for those sections no questions of implementations have been raised and the team has not made any substantive and significant recommendations for improvements over the previous two reviews.

*As noted above the capacity to undertake reviews is currently strained. As more countries report more frequently on more areas, this situation will only worsen. Efforts should be made to streamline the process so that ERTs focus on the most important (and the most sensitive) sections of a review and leave the rest of the reporting to be reviewed by international experts on the Committee. To be sure, ERTs should review at least one inventory per country per commitment period as well as the final assessment at the end of the commitment period, however if a review continually raises no questions of implementation or other concerns then the Committee should be allowed to conduct the review. ERTs should also be allowed to retain certain sections of a review (e.g. the LULUCF section) and request the Committee to review all others.*

24. The expert review teams shall prepare a report to the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol assessing the implementation of commitments or aims of the Party and identifying any potential problems in, and factors influencing, the fulfillment of commitments or aims. Such reports shall be circulated by the secretariat to all Parties to the Convention.

#### REVIEW OF ZCAPS OF INDUSTRIALIZED COUNTRIES

25. The information submitted under paragraphs 12, 13 and 14 by each Party included in Annex B shall be reviewed by the Committee pursuant to the relevant decisions of the Conference of the Parties and in accordance with the guidelines adopted for this purpose by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session. The guidelines shall contain provisions by which the problems to be identified during the assessment by the Committee shall relate to the fulfillment of the set of indicators referred to in paragraph 14. The guidelines shall build on those adopted pursuant to paragraph 27 for the annual compilation and accounting of emissions inventories and assigned amounts and shall include an assessment of emissions trends and scenario analysis.

*Review of the ZCAPs should focus on the general emissions trends of a Party towards its 2050 goal, the measures it has put in place to ensure this long-term objective has been met and whether a Party is fulfilling its support obligations. The review on the GHG inventories (below) should focus on the quality of the inventory.*

*The guidelines for this review should build on the model of Decision 22/CMP.1, however limiting the review of the Committee to the transparency, completeness and timeliness of the support obligation information would not fulfill the requirement that support be MRVed. Instead the Committee should focus on how well countries are fulfilling their obligations with respect to the set of indicators to be developed.*

*The guidelines should also be streamlined with those developed for KP Art. 7.2, the latter guidelines should be subsumed within the ZCAP review process.*

26. The guidelines referred to in paragraph 25 shall include a provision by which the Committee shall assess a Party's individual financial contribution toward the means of implementation, its assessed amount, prorated over the five years of each commitment period. If this contribution is 15% below the accumulative amount, the Committee shall deem this a problem identified and raise it as a question of implementation.

*An 'automatic referral' should happen with a Party's financial contribution is 15% below what it should have been for that year of the commitment period on a prorated basis.*

#### REVIEW OF INDUSTRIALIZED COUNTRY NATIONAL SYSTEMS, NATIONAL REGISTRIES AND GHG INVENTORIES

27. The information related to national systems, submitted under paragraph 1, national registries, submitted under paragraph 6 and inventories, submitted under paragraph 7, shall be reviewed by expert review teams, in accordance with *mutatis mutandis* the relevant provisions of the Kyoto Protocol and the elaboration of these provisions in decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, including the Marrakech Accords. Any revision to the guidelines for review shall be jointly agreed upon by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and to this Protocol.

*The review provisions of the Kyoto Protocol as amended should apply to the US and newly industrialized countries. Any future revisions of the guidelines for review of GHG inventories should be jointly agreed by both the CMCP and the CMKP.*

28. During the annual review of inventories, the expert review team shall calculate the difference, if any, between a Party's current emissions level and its quantified emission limitation and reduction commitment on a prorated basis. If Party's emissions are 15% above its prorated quantified emission limitation and reduction commitment, the expert review team shall deem this a problem identified and raise it as a question of implementation.

*An 'automatic referral' to the Compliance Committee should happen when a Party's emissions are 15% above the trajectory needed to meet its emission reduction target. Such an automatic trigger would ensure that countries like Canada get referred to the Compliance Committee and contribute towards the early-warning function of the Facilitative Branch. The details of this trigger should be included in the 'Identification of problems' section of Decision 22/CMP.1.*

*This provision should also be included in Art. 8 of the Kyoto Protocol for greater clarity and an update of Decision 22/CMP.1.*

#### REVIEW OF NAMAS/LCAPS

29. The information submitted under paragraph 16 (NAMA implementation reporting) by each Party not included in Annex B shall be reviewed by the Committee pursuant to the relevant decisions of the Conference of the Parties and in accordance with the guidelines adopted for this purpose by the Conference of the

Parties serving as the meeting of the Parties to this Protocol at its first session. The guidelines for review shall apply to all types of NAMAs including those undertaken unilaterally, those with international support and the CMAs that is those supported through market mechanisms.

30. The guidelines for review shall be informed by the indicators agreed pursuant to paragraph 19 of Article 6 (CCF). The review of unilateral NAMAs shall take place in-country with domestic experts and be supported by a centralized review by the Committee. The Committee shall also review the supported NAMAs during this time. Domestic experts shall undertake the same training programmes provided by the Committee and fulfill the same expertise requirements as international expert reviewers. The In-Country Coordinating Mechanism, referred to in Article 6, paragraph 11, shall select the domestic experts and coordinate the national review.

A report of each review shall be published and indicate if there are any questions of implementation, namely if any of the agreed indicators suggest a discrepancy between the approved action and the implemented action. Questions of implementation shall be forwarded to the Facilitative Branch for consideration.

31. Credited mitigation actions, which were referred to the Carbon Market Regulatory Agency, pursuant to paragraph 20 of Article 6 (CCF) shall also meet any reporting and review requirements established by that Agency. The Agency may be informed by the review undertaken by the Committee; however the Agency retains the decision-making power for the review of the CMAs referred to it, including, ultimately, the issuance of credits.
32. The information submitted under paragraph 17 (LCAP implementation reporting) by each Party not included in Annex B shall be reviewed by the Committee pursuant to the relevant decisions of the Conference of the Parties and in accordance with the guidelines adopted for this purpose by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session, taking into account those guidelines developed under paragraph 29. The Committee shall publish a report of each review and indicate if there are any questions of implementation. Questions of implementation shall be forwarded to the Facilitative Branch for consideration.

#### REVIEW OF DEVELOPING COUNTRY NATIONAL SYSTEMS & GHG INVENTORIES

33. The information related to national systems, submitted under paragraphs 2 and 3, and inventories, submitted under paragraphs 9, 10 and 11 of this Article by each Party not included in Annex B shall be reviewed by expert review teams. The guidelines for the review should be based upon those in Decision 22/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its first session, to the extent possible and taking into consideration the common but differentiated responsibilities and capacities of Parties. The guidelines shall be decided upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session.

*The guidelines for review of the national systems and GHG inventories of developing countries should be similar to those contained in Dec. 22/CMP.1.*

ASSESSMENT OF DEVELOPING COUNTRY CARBON BUDGET

34. An expert review team shall review the final reports submitted under paragraphs 9, 10, 11, 16 and 17 (GHG, NAMA and LCAP reporting) at the end of the 2013-2017 period for all Parties not included in Annex B. The expert reviewers shall assess the action taken by Parties not included in Annex B taking into account the carbon budget specified in paragraph 2 of Article 4. The expert review team shall prepare a report of its findings for the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol and forward its report to the Facilitative Board, if required. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall adopted, at its first session, guidelines for this assessment.

## **Article 11 – Compliance**

1. The procedures and mechanisms, as contained in Decision 27/CMP.1, to determine and to address cases of non-compliance with the provisions of the Kyoto Protocol shall apply *mutatis mutandis* to Parties to the Copenhagen Protocol, including the Rules of Procedure contained in Decision 4/CMP.2 and as amended in Decision 4/CMP.4.

*The purpose of this provision is to import the structure and process of the Compliance Committee into the Copenhagen Protocol. As there are no provisions under the Kyoto Protocol that apply to developing countries, only those outlined in this Article would subject them to the Compliance Committee and then only to the Facilitative Branch. The purview of the Committee would also need to be expanded to cover the US and the NICs and all industrialized country support obligations.*

2. The objective of the procedures and mechanisms shall be to facilitate, promote and enforce compliance with commitments under this Protocol and the Kyoto Protocol and to facilitate and promote the achievement of aims under this Protocol, as provided for in 27/CMP.1 and elaborated upon in this Article and Article 18 bis of the Kyoto Protocol as amended.

*The objective contained in Decision 27/CMP.1 reads:*

*The objective of these procedures and mechanisms is to facilitate, promote and enforce compliance with the commitments under the Protocol.*

*The objective outlined above reflects the agreement achieved under the two Protocols.*

### FACILITATIVE BRANCH

3. The facilitative branch shall be responsible for providing advice and facilitation to all Parties in implementing the Protocol, promoting compliance by Parties included in Annex B with their commitments and support obligations under this Protocol and the Kyoto Protocol and promoting the achievement by Parties not included in Annex B of their mitigation aims under Article 4 of this Protocol, taking into account the principle of common but differentiated responsibilities and respective capabilities as contained in Article 3, paragraph 1, of the Convention. It shall also take into account the circumstances pertaining to the questions before it.

*This provision builds on paragraph 4 of section IV of the Annex to Decision 27/CMP.1 which outlines the mandate of the facilitative branch.*

### INDUSTRIALIZED COUNTRIES

4. The facilitative branch shall be responsible for addressing questions of concern and implementation:
  - i) Relating to Article 8, paragraph 1 (Technology Development Objective); and
  - ii) Relating to Article 9, paragraph 2 (PAMs underlying causes of REDD);
  - iii) Relating to Article 6, paragraph 24, including questions of concern arising from the review of a Party's ZCAP by the Mitigation Board;

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in addition to those provisions outlined in Decision 27 of the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

5. With the aim of building trust amongst Parties, promoting compliance and providing for early warning of potential non-compliance, the facilitative branch shall be responsible for providing advice and facilitation for compliance with:
  - i) Commitments under Article 3, paragraphs 3, 4 and 5, of the Protocol, prior to the beginning of the relevant commitment period and during that commitment period (QERCs/QERLCs);
  - ii) Commitments under Article 7, paragraphs 2 and 6 (Financial support and assessed amounts), of the Protocol, prior to the beginning of the relevant commitment period and during that commitment period;
  - iii) Commitments under Article 4, paragraph 12 and Article 10, paragraph 19 (support for developing country reporting);
  - iv) Commitments under Article 8, paragraph 1 (technology cooperation and joint R&D support), of the Protocol, prior to the beginning of the relevant commitment period and during that commitment period;
  - v) Commitments under Article 3, paragraph 6, of the Protocol, prior to the beginning of the relevant commitment period (ZCAP preparation), taking into account the timeline specified in Article 3, paragraph 8;
  - vi) Commitments under Article 7, paragraph 3, of the Protocol, prior to the beginning of the relevant commitment period (auctioning of AAUs); and
  - vii) Commitments under Article 10, paragraphs 1, 4, 6, 7, 12, 13, 14 and 15, of the Protocol, prior to the beginning of the relevant commitment period (national systems and national registries, GHG inventory and ZCAP implementation reporting);in addition to those provisions outlined in Decision 27 of the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

*These provisions are in addition to what the facilitative branch already covers (i.e. targets before and during the CP and reporting requirements before the CP) for Kyoto Parties.*

6. In addition to the consequences the facilitative branch may apply under Dec. 27/CMP.1, the facilitative branch, taking into account the principle of common but differentiated responsibilities and respective capabilities, may decide on the application of one or more of the following consequences:
  - i) Issuance of a statement expressing concern with respect to early warning signs of non-compliance on the part of a Party included in Annex B;
  - ii) Development of a plan in accordance with paragraphs 7 and 8 below; and
  - iii) Payment of a bond in accordance with paragraph 9 below.
7. The Party included in Annex B at risk of being in non-compliance under paragraph 5 above, shall, within three months after the determination that a risk of non-compliance exists, or such longer period that the facilitative branch considers appropriate, submit to the facilitative branch for review and assessment a plan that includes:
  - i) An analysis of the risks of non-compliance of the Party;

- ii) Measures that the Party intends to implement in order to eliminate those risks; and
  - iii) A timetable for implementing such measures within a time frame not exceeding twelve months which enables the assessment of progress in the implementation.
8. The Party at risk under paragraph 5 above shall submit to the facilitative branch progress reports on the implementation of the plan on a regular basis.
9. If the facilitative branch has little confidence that a Party included in Annex B at risk of being in non-compliance will undertake the measures necessary to bring itself back into compliance, it may require the Party concerned to post a bond. This bond shall be equal to a certain portion of the penalties, pursuant to paragraph 15 below, that a Party would be required to pay at the end of the commitment period in the case of non-compliance. The bond shall be returned if the Party concerned is ultimately found to be in compliance or forfeited in cases on non-compliance. The interest on the bond shall be transferred to the Copenhagen Climate Facility, referred to in Article 6.

*In essence, a Party would be required to pre-pay, if it looked like the Party could be in non-compliance. The loss of the interest is the penalty for the poor planning and slow action that risked non-compliance in the first place.*

#### *DEVELOPING COUNTRIES*

10. With the aim of building trust amongst Parties, promoting the achievement of aims and providing for early warning identification of difficulties with achieving aims, the facilitative branch shall be responsible for providing advice and facilitation for the achievement of, including being responsible for addressing all questions of concern and implementation with respect to:
- i) Aims under Article 4, paragraph 2, of the Protocol, prior to the beginning of the 2013-2017 period, during that period and at the end of that period (carbon budget aim);
  - ii) Reporting under Article 4, paragraphs 4, 5 and 9, of the Protocol, prior to the beginning of the 2013-2017 period and during that period (NAMA registration/ LCAP preparation);
  - iii) Actions and reporting under Article 6, paragraph 23, of the Protocol, prior to the beginning of the 2013-2017 period (Mitigation Board *a priori* review);
  - iv) Actions and reporting under Article 10, paragraphs 2, 3, 9 and 10, of the Protocol, prior to the beginning of the 2013-2017 period and during that period (National systems and GHG inventories); and
  - v) Implementation activities and reporting under Article 10, paragraphs 16 and 17, of the Protocol, prior to the beginning of the 2013-2017 period and during that period (NAMA/LCAP implementation).
11. In addition to the consequences the facilitative branch may apply under Dec. 27/CMP.1, the facilitative branch, taking into account the principle of common but differentiated responsibilities and respective capabilities, may decide to issue a statement expressing concern with respect to any of the aims, actions or reports provided for in paragraph 10.

12. In addition to those consequences provided for in paragraph 10, the facilitative branch, taking into account the principle of common but differentiated responsibilities and respective capabilities, may decide on the application of one or more of the following consequences in relation to matters covered under subparagraph (v) of paragraph 10, particularly in instances where the facilitative branch determines that a discrepancy between the agreed and implemented action exists:
- i) Require the Party concerned to develop a remediation plan;
  - ii) Discontinue its financial support of other registered actions, pursuant to Article 4, paragraph 4, of the Party concerned, in whole or in part; and
  - iii) Prohibit access of the Party concerned to the carbon market and inform the Carbon Market Regulatory Agency of its decision.
13. The consequences specified in paragraph 12 may only be applied if the facilitative branch has undertaken a detailed dialogue with the Party concerned and an amicable solution could not be found. The dialogue shall last no longer than six months from the time the Party concerned has been notified of a question of implementation. The Conference of the Parties serving as the meeting of the Parties, shall, at its first session, adopt further procedures for the dialogue and its outcomes.

#### ENFORCEMENT BRANCH – INDUSTRIALIZED COUNTRIES

14. The enforcement branch shall be responsible for determining whether a Party included in Annex B is not in compliance with:
- i) Its quantified emission limitation or reduction commitment under Article 3, paragraphs 3, 4 and 5, of the Protocol;  
*Other industrialized countries would be covered under the KP provisions.*
  - ii) The methodological and reporting requirements under Article 3, paragraph 6 (ZCAPs), Article 6, paragraph 23 (revised ZCAPs) and Article 10, paragraphs 1, 4, 6, 7, 12, 13 and 14;
  - iii) The auctioning of [ten] per cent of its assigned amount units per year under Article 7, paragraph 3, of the Protocol; and
  - iv) The financial, technology and capacity building support obligations under Article 7 (Finance), Article 4, paragraph 12, Article 10, paragraph 19 (Developing country reporting support) and Article 8, (technology cooperation) of the Protocol;
- in addition to those provisions outlined in Decision 27 of the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

*These responsibilities are in addition to the areas the enforcement branch already covers, i.e. targets for Kyoto Parties.*

15. In addition to the consequences the enforcement branch may apply under Dec. 27/CMP.1, the enforcement branch, taking into account the principle of common but differentiated responsibilities and respective capabilities, may decide to apply financial penalties. Financial penalties shall be applied for non-compliance with quantified emission limitation and reduction commitments or support obligations. All financial penalties shall be paid to the Copenhagen Climate Facility and shall be allocated to the adaptation funding window of that Facility.

In cases where a Party has paid a bond as provided for in paragraph 9 and proves to be in non-compliance, the amount of the bond shall be subtracted from the total amount of financial penalties to be paid.

*The 1.3x emission reduction penalty is ineffective and should be replaced by financial penalties. Other means to encourage compliance could also be considered.*

16. The Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol shall jointly adopt at the first session of the Conference of the Parties serving as the meeting of the Parties to this Protocol and the corresponding session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol modalities for calculating the financial penalties to be applied pursuant to paragraph 15.

17. The Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol shall jointly elaborate on the procedures and mechanisms, including the rules of procedure, as required.

*The CMCP and CMKP should jointly elaborate, but not detract from, the procedures and mechanisms in light of the provisions of this Article.*

## **Article 12 – Review of Adequacy of Commitments and Subsequent Negotiations**

1. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall periodically review this Protocol in the light of the best available scientific information and assessments on climate change and its impacts as well as relevant technical, social and economic information with a view to ensuring that the ultimate objective of the Convention and the shared vision of this Protocol and the Kyoto Protocol are met. Such reviews shall be coordinated with pertinent reviews under the Convention and under Article 9 of the Kyoto Protocol as amended. Submissions from non-governmental organizations and interested stakeholders shall be considered as part of the review. Based on these reviews, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall take appropriate action, jointly with the Kyoto Protocol where appropriate and including increasing the stringency of commitments, as necessary.
2. The first review shall take place by 2014 and shall be based on the findings of the Fifth Assessment Report of the Intergovernmental Panel on Climate Change. Further reviews shall take place at regular intervals and in a timely manner.
3. Knowledge of climate change and its impacts, climate sensitivity and tipping points is rapidly evolving and often at a speed greater than the assessment process of the Intergovernmental Panel on Climate Change. An emergency review based on emerging science may be necessary to protect the climate from threshold changes and to be consistent with the precautionary principle enshrined in Article 3 of the Convention. Notwithstanding the provisions of this Article, a three-fourths majority vote may trigger a review process, including examining the need to increase the stringency of commitments, including reductions and limitations in the emission of the greenhouse gases listed in Annex A, at any time. This vote may occur and the review shall proceed, when a three-fourths majority vote of Parties present and voting is obtained, irrespective of whether the rules of procedure of the Conference of the Parties serving as the meeting of the Parties have been adopted or are being provisionally applied.

*An emergency review clause is necessary to avoid dangerous climate change. Parties should make every effort to adopt the rules of procedure in Copenhagen, if this is done the last part of this paragraph may be removed, however the majority requirement should remain.*

4. In the absence of any amendment in force to the contrary, the quantified emission reduction commitments for Parties included in Annex B that are inscribed in Annex B of both the Kyoto Protocol as amended and this Protocol shall decrease by [x] per cent per year starting 1 January 2018. In the absence of any amendment in force to the contrary, the carbon budget which Parties not included in Annex B, as a group, seek to stay within shall decrease by [x] per cent per year starting 1 January 2018.

*The default reduction figures should be set high enough to serve as an incentive for Parties to start negotiations.*

5. Notwithstanding paragraph 4 and with a view to ensuring that the ultimate objective of the Convention and the shared vision of this Protocol and the Kyoto Protocol are met, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall initiate negotiations regarding effort sharing for the next commitment period, 2018-2022, in 2013 and adopt the results of these negotiations, including further quantified emission reduction commitments, as early as possible, in time to ensure that there is no gap between commitment periods, and no later than 2015. The level of ambition of these negotiations and the quantified emission reduction commitments or nationally appropriate mitigation actions adopted in order to achieve the ultimate objective of the Convention and the shared vision of this Protocol and the Kyoto Protocol shall be guided by and based on the findings of the Fifth Assessment Report of the Intergovernmental Panel on Climate Change as well as relevant scientific, technical, social and economic information. These negotiations should be conducted in parallel with the negotiations on the third commitment period of the Kyoto Protocol, pursuant to Article 3.9 bis of that Protocol.

*A similar clause triggering negotiations in 2013 should be included in the Kyoto Protocol as amended.*

6. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall initiate negotiations for subsequent commitment periods, including the adequacy of commitments, at least five years before the end of the commitment period that immediately precedes the commitment period under consideration.

*A similar clause should be included in the Kyoto Protocol as amended.*

## **Article X - Emissions from International Aviation & Maritime Transport**

[Placeholder]

*Revenue from international maritime and aviation transport should be raised through either levies or auctioning. This should be done at the global or near-global level. The Copenhagen Climate Facility should manage the revenue generated; however the ICAO and IMO could receive part of these funds to promote the transfer of clean technology within their sectors. ICAO and IMO have the technical expertise to design global policies and the institutions to enforce them; however the UNFCCC is responsible for climate protection.*

*Countries should strive to minimize negative impacts that could be felt by the most vulnerable countries arising from these measures through, inter alia:*

- a) Establishing de minimus threshold that may be applied in order to exempt routes to the most vulnerable countries;*
- b) Earmarking a portion of the revenues within the Copenhagen Climate Facility to go towards those most affected; and*
- c) Reviewing the reporting received from countries (through the national communications) on any of the negative impacts and taking the appropriate action.*

*The provisions drafted under this section should reflect the above and corresponding changes should be made to Article 2.2 of the Kyoto Protocol. Amendments to Annex A across both Protocol should be made to include emissions from these sections into the accounting for Parties included in Annex B.*

## **Article X – Carbon Market Regulatory Agency**

[Placeholder]

1. A Carbon Market Regulatory Agency is hereby established.

*In order to provide credibility for the carbon market and ensure that it maintains high quality standards, a new Carbon Market Regulatory Authority should be established. This Authority should have full oversight of preparations for Parties to participate in the carbon market, whether on the national, sectoral or project level. The Authority should be made up of carbon market experts, not government representatives and have a fair amount of independence to operate. The Authority should also be empowered with a strong capacity building function to assist countries in developing the institutional and technical capacity and the know-how to participate in the carbon market if they so choose. Provisions to this effect should be included in the Protocol.*

### **Article X – Secretariat**

1. The secretariat established by Article 8 of the Convention shall serve as the secretariat of this Protocol.
2. Article 8, paragraph 2, of the Convention on the functions of the secretariat, and Article 8, paragraph 3, of the Convention on arrangements made for the functioning of the secretariat, shall apply *mutatis mutandis* to this Protocol. The secretariat shall, in addition exercise the functions assigned to it under this Protocol.

*These two paragraphs are identical to those contained in Article 14 of the Kyoto Protocol.*

3. For the two year period from 1 January 2010 to 31 December 2011 or until such time as the Copenhagen Climate Facility is operational, the secretariat shall serve as the interim facility. The interim facility is established for the purposes of providing immediate financial and technical cooperation to Parties not included in Annex B and to ensure the prompt start of all mechanisms, reporting and review activities and other actions contained in the Articles of the Protocol.

*It will take some time to fully established and operationalize the Copenhagen Climate Facility. As some of the Boards are tasked with functions that need to be completed in 2010, particularly the review of the ZCAPs/LCAPs and support for pilot NAMAs, an entity is needed to make sure this happens in the interim. We think it is easiest that the secretariat take charge of that role.*

### **Article X – Entry Into Force**

*The Copenhagen Protocol and Kyoto Protocol as amended should be viewed as a package encompassing the international community's response to avoiding dangerous climate change. Countries should ratify the amendment of the Kyoto Protocol and the Copenhagen Protocol simultaneously (with the exception of the United States). Entry into force provisions should ensure that there is no gaming of the system and encourage rapid entry into force of the Protocol.*

### **Article X – Provisional Application**

1. This Protocol shall be applied and implemented provisionally from the date of its adoption by the Conference of the Parties and shall continue to apply and be implemented on a provisional basis until the entry into force of the Protocol for each Party, except for any such Party which notifies the depositary in writing either that it will not so apply this Protocol or that it will consent to such application only upon subsequent signature or notification in writing.

### **Article X – Privileges and Immunities**

*Adequate measures shall be put into place to enable the full and effective functioning of the mechanisms and bodies established under this Protocol.*

**Article X – Reservations**

No reservations may be made to this Protocol.

**[Article X – Other Final Clauses]**

*We have not included all of the final clauses here. Provisions are need on amendments to the Protocol, adoption of and amendments to Annexes, the right to vote, the depositary, etc. Provisions are also needed clarifying the link with SBSTA and SBI.*

**Annex A of the Copenhagen Protocol**

*The same as Annex A of the Kyoto Protocol as amended (thus including emissions from international aviation and maritime transport).*

**Annex B of the Copenhagen Protocol**

*QERCs for the USA and other countries that have not yet ratified the Kyoto Protocol and QELRCs for newly industrialized countries above a certain threshold.*

**Annex C of the Copenhagen Protocol**

*The scale of assessments to be used to determine the assessed amount of financial support required of each Party included in Annex B to support the efforts of developing countries.*

# AMENDMENTS TO THE KYOTO PROTOCOL FOR ANNEX I PARTIES THAT HAVE RATIFIED IT AS OF 15 DECEMBER 2007

*This section outlines the main amendments that should be made to the Kyoto Protocol. However, it does not necessarily include all consequential amendments required. The main amendments include:*

- *Updating the Definitions article to include new terms such as the global carbon budget and Annex B/Non-Annex B countries;*
- *The shared vision from Article 2 of the Copenhagen Protocol so that the shared vision is unified across the two Protocols;*
- *Deep emission reduction targets for industrialized countries of at least 40% by 2020 as a group (at least 23% in the 2013-2017 commitment period);*
- *Modifying Art. 2.2 to be in line with the provisions related to international maritime and aviation transport included in the Copenhagen agreement and an amendment to Annex A to include those emissions;*
- *Provisions to enable the auctioning of AAUs as a means to raise financing to support actions in developing countries, the revenue from which would go to the Copenhagen Climate Facility of the Copenhagen Protocol;*
- *Provision to strengthen the review process under Art. 9;*
- *Provisions to strengthen the compliance regime as well as unify reporting and review requirements for industrialized countries across the two Protocols; and*
- *Provision for the provisional application of the Amendment.*

*The legal obligations for all industrialized countries to produce zero-carbon action plans (ZCAPs) and to provide measurable, reportable and verifiable financial, technology and capacity building support for developing countries are contained in the Copenhagen Protocol and are not recreated here.*

## **ARTICLE 1 - AMENDMENTS**

### **[AMENDMENTS TO ARTICLE 1 – DEFINITIONS]**

Article 1 of the Protocol shall be deleted and replaced by the following Article:

#### **Article 1**

For the purposes of this Protocol, the definitions contained in Article 1 of the Convention shall apply. In addition:

1. “Conference of the Parties” means the Conference of the Parties to the Convention.
2. “Convention” means the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992.

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3. “Copenhagen Protocol” means the Copenhagen Protocol to the United Nations Framework Convention on Climate Change, adopted in Copenhagen on 18 December 2009.
4. “Global carbon budget” means the total global anthropogenic emissions of all greenhouse gases from the sources listed in Annex A weighted by the 100 year global warming potentials for greenhouse gases as accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties that are allowed to be emitted over a specified period of time and expressed in gigatonnes of carbon dioxide equivalence.
5. “Intergovernmental Panel on Climate Change” means the Intergovernmental Panel on Climate Change established in 1988 jointly by the World Meteorological Organization and the United Nations Environment Programme.
6. “Marrakesh Accords” means decisions 2/CP.7 to 24/CP.7 inclusive adopted by the seventh Conference of the Parties in Marrakesh on 10 November 2001 and affirmed at the first Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.
7. “Montreal Protocol” means the Montreal Protocol on Substances that Deplete the Ozone Layer, adopted in Montreal on 16 September 1987 and as subsequently adjusted and amended.
8. “Parties present and voting” means Parties present and casting an affirmative or negative vote.
9. “Party” means, unless the context otherwise indicates, a Party to this Protocol.
10. “Party included in Annex B” means, unless the context otherwise indicates, a Party included in Annex B of this Protocol or in Annex B of the Copenhagen Protocol, as may be amended.
11. “Party included in Annex I” means a Party included in Annex I to the Convention, as may be amended, or a Party which has made a notification under Article 4, paragraph 2 (g), of the Convention.
12. “Party not included in Annex B” means a Party not included in Annex B of this Protocol or in Annex B of the Copenhagen Protocol, as may be amended.

*Paragraphs 3, 4, 6, 10 and 12 denote new definitions.*

**[AMENDMENTS TO ARTICLE 2.2 – INTERNATIONAL AVIATION & MARITIME TRANSPORT]**

*Article 2.2 should be amended to reflect the provisions included under the Copenhagen Protocol.*

**[AMENDMENTS TO ARTICLE 2 – ADDING SHARED VISION]**

The following Article shall be inserted after Article 2 of the Protocol:

**Article 2 bis**

1. In order to achieve the ultimate objective of the Convention to prevent dangerous anthropogenic interference with the climate system in a timely manner, the global mean temperature must peak as far below 2°C above the pre-industrial period as possible and drop to the pre-industrial level as fast as possible. Even an increase of 1.5°C above pre-industrial levels may lead to

irreversible impacts and put into jeopardy the ability of Parties to meet the ultimate objective of the Convention. Global anthropogenic emissions of all greenhouse gases from all sources listed in Annex A must therefore peak during the second commitment period of this Protocol, namely 2013-2017.

2. A global carbon budget shall guide the emission reduction targets and actions of all Parties pursuant to paragraph 1. A global carbon budget for 2020 is hereby defined as no higher than 36.1 Gt CO<sub>2</sub>e<sup>3</sup>; the budget for 2050 shall be no higher than 7.2 Gt CO<sub>2</sub>e.
3. Effort sharing to achieve the ultimate objective of the Convention and pursuant to the shared vision of this Article and that of the Copenhagen Protocol should be based on the criteria of responsibility, capability and potential to mitigate and take into account the principles of common but differentiated responsibility and respective capability, equity, fairness and consider that economic and social development, poverty eradication and adaptation to climate change are the top priorities for developing countries.
4. The carbon budget for the industrial GHG emissions of Parties included in Annex B shall be 11.7 Gt CO<sub>2</sub>e for 2020 and 1.0 Gt CO<sub>2</sub>e for 2050. To stay within this carbon budget, Parties included in Annex B shall, as a group, reduce their industrial GHG emissions by at least 40% per cent below 1990 levels by 2020, at least 60% below 1990 levels by 2030 and 95% below 1990 levels by 2050.
5. Parties not included in Annex B should aim to stay within a carbon budget of 23.5 Gt CO<sub>2</sub>e in 2020 and 6.3 Gt CO<sub>2</sub>e in 2050. The type, scale and scope of enhanced actions undertaken by Parties not included in Annex B shall vary greatly given the wide range of national circumstances and shall be supported by technology, financing and capacity building from Parties included in Annex B. This level of ambition shall guide any new commitments, institutions, instruments and mechanisms established under this Protocol and any related legal instruments or decisions.
6. Reducing emissions from deforestation is necessary to stay within the global carbon budget specified in paragraph 2 and to achieve the ultimate objective of the Convention. The vast majority of gross emissions from deforestation and forest degradation in Parties not included in Annex B shall be eliminated by 2020, with a view to eliminating nearly all human induced forest emissions by 2030. All efforts to reduce emissions from deforestation should be fully consistent with the rights of indigenous peoples and should contribute to the conservation of biological diversity.
7. All peoples, cultures and nations have the right to survive and the right to develop sustainably. The responsibility for adequately dealing with, and adapting to, the adverse consequences of climate change, including for the protection of cultures, especially those of Arctic peoples, and nations,

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<sup>3</sup> 11.7 Gt CO<sub>2</sub>e for industrialized countries' industrial GHG emissions; 23.5 Gt CO<sub>2</sub>e for developing countries' industrial GHG emissions and 1.0 Gt CO<sub>2</sub>e for emissions from land-use change (differences in the addition are due to rounding).

especially the Small Island Development States, whose existence is threatened, must be fairly shared according to agreed principles. Developed countries and other countries with the capacity to do so shall support the building of adaptive capacity and climate resilience in developing countries, particularly the most vulnerable.

8. Life on earth is an intricately interconnected web helping to maintain the conditions for its own survival. Because of their intrinsic worth and because of the services they provide, the viability of all ecosystems should be maintained, in accordance with the ultimate objective of the Convention, requiring stabilization of greenhouse gas concentrations in the atmosphere at a level achieved within a time-frame sufficient to allow them to adapt naturally to climate change.
9. The carbon budget and emissions reduction targets shall be reviewed at regular intervals and in a timely manner, continually strengthened and revised in light of the best available science. Should new and emerging science suggest that more stringent budgets and targets are required to avoid dangerous climate change and ensure the right of all peoples, cultures and nations to survive, these budgets and targets shall be adjusted immediately.
10. A massive scaling up of financial resources, from both the public and private sources, is required in order to adequately, sufficiently and swiftly reduce anthropogenic GHG emissions, adapt to climate change and achieve the ultimate objective of the Convention and the shared vision of this Protocol. For the second commitment period of this Protocol, 2013-2017, this will require at least 160 billion USD to support capacity building, adaptation, reducing emissions from deforestation and technology diffusion in developing countries. These financial resources should primarily be raised through the auctioning of assigned amount units in a predictable and timely manner.
11. A Technology Development Objective is required to meet the challenge of avoiding dangerous climate change. The Objective should be visionary in scope but outline, through detailed Technology Action Programmes, how to shift the world onto a low-carbon development path. To spur innovation and advances in new mitigation and adaptation technology, total investment in research, development and deployment should increase to at least double current levels by 2012 and four times current levels by 2020. Collaborative efforts are essential, particularly between developed and developing countries and between developing countries themselves. Large scale diffusion of proven low-carbon technologies, especially renewable energy technologies, and the adoption of energy efficient measures must commence immediately, with a view to obtaining at least two thirds of the world's primary energy from renewable energy sources by 2050. Parties should strive to improve the average energy intensity of the global economy by at least 2.5 per cent per year until 2050. Significant emphasis must also be placed on increasing the access by all to modern energy services, with a view to eliminating energy poverty by 2025.

12. All institutions, instruments, mechanisms and policies and actions developed pursuant to this Protocol shall be governed in an open, transparent, fair and effective system under the ultimate authority of the Conference of the Parties serving as the meeting of the Parties.
13. All Parties acknowledge and agree that it will only be possible to meet the goals of this shared vision if commitments under both the Copenhagen Protocol and Kyoto Protocol are fulfilled. This Protocol shall be applied and implemented provisionally from the date of its adoption by the Conference of the Parties and shall continue to apply and be implemented on a provisional basis until the entry into force of the Protocol for each Party.

*This is essentially the shared vision article from the Copenhagen Protocol*

**[AMENDMENTS TO ARTICLE 3 – QERCs]**

The following paragraphs shall be inserted after paragraph 1 of Article 3 of the Protocol:

1 bis. The Parties included in Annex B shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A do not exceed their assigned amounts, calculated pursuant to their quantified emission reduction commitments inscribed in the third column of the table contained in Annex B of this Protocol.

1 ter. The Parties included in Annex B shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A of this Protocol as amended or of the Copenhagen Protocol do not exceed their assigned amounts, calculated pursuant to their quantified emission limitation and reduction commitments inscribed in the third column of the table contained in Annex B of this Protocol as amended or of the Copenhagen Protocol, with a view to reducing their overall emissions from industrial sources of such gases by at least 23 per cent below 1990 levels in the commitment period 2013 to 2017.

*All developed and newly industrialized countries should reduce their emissions, as a group, by 23 percent below 1990 levels in the 2013-2017 commitment period. This target is consistent with an emissions reduction trajectory that yields a 40 % reduction in emissions by 2020 and represents annual average reduction for the commitment period (i.e. what the target in 2015 would be).*

The following paragraph shall be inserted after paragraph 7 of Article 3 of the Protocol:

7 bis. In the second quantified emission reduction commitment period, from 2013-2017, the assigned amount for each Party included in Annex B shall be equal to the percentage inscribed for it in the third column of the table contained in Annex B of its aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A in 1990, or the

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base year or period determined in accordance with paragraph 5 above, multiplied by five.

In paragraph 9 of Article 3 of the Protocol, for the words:

the consideration of such commitments

there shall be substituted:

the consideration of commitments for the second commitment period

The following paragraph shall be inserted after paragraph 9 of Article 3 of the Protocol:

9 bis. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall initiate negotiations regarding effort sharing for the third commitment period, 2018-2022 in 2013 and adopt the results of these negotiations, including further quantified emission reduction commitments, as early as possible, in time to ensure that there is no gap between commitment periods, and no later than 2015. The level of ambition of these negotiations and the quantified emission reduction commitments adopted in order to achieve the ultimate objective of the Convention and the shared vision of this Protocol and the Copenhagen Protocol shall be guided by and based on the findings of the Fifth Assessment Report of the Intergovernmental Panel on Climate Change as well as relevant scientific, technical, social and economic information. These negotiations should be conducted in parallel with the negotiations on the second commitment period of the Copenhagen Protocol, pursuant to Article 12.5 of that Protocol.

*Negotiations for the next commitment period, 2018-2022, should begin in 2013 and end no later than 2015. This provision is similar to Article 12.5 of the Copenhagen Protocol.*

The following paragraph shall be inserted after paragraph 9 bis of Article 3 of the Protocol:

9 ter. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall initiate negotiations for subsequent commitment periods, including the adequacy of commitments and the need for further quantified emission reduction commitments on the part of Parties included in Annex B, at least five years before the end of the commitment period that immediately precedes the commitment period under consideration.

*A similar clause is included in Art. 12.6 of the Copenhagen Protocol*

The following paragraph shall be inserted after paragraph 9 ter of Article 3 of the Protocol:

9 quater. In the absence of any amendment in force to the contrary, the quantified emission reduction commitments for Parties included in Annex B

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that are inscribed in the third column of the table contained in Annex B of the Kyoto Protocol shall decrease by [x] per cent per year starting 1 January 2018.

*The default reduction figures should be set high enough to serve as an incentive for Parties to start negotiations. A similar provision has been included Art. 12.4 of the Copenhagen Protocol.*

**[NEW ARTICLE - AUCTIONING]**

The following Article shall be inserted after Article 3 of the Protocol:

**Article 3 bis**

1. Auctioning of assigned amount units of all Parties included in Annex B shall be the primary means of raising the level of resources necessary, pursuant to Article 7, paragraph 1 of the Copenhagen Protocol, to support developing country Parties in meeting their commitments under the Copenhagen Protocol. [Ten] per cent of assigned amount units of each Party shall be auctioned in the 2013-2017 commitment period; this percentage should increase in each subsequent commitment period.
2. The rules and modalities governing the auctioning process shall be adopted jointly by the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol and the Conference of the Parties serving as the meeting of the Parties to this Protocol. The rules and modalities shall consider, *inter alia*, the effect banking of assigned amount units from the first commitment period of this Protocol may have on the price of assigned amount units obtained from auctioning and shall be flexible as per Parties' national circumstances. A certain degree of flexibility, including the percentage of assigned amount units, shall be allowed by the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol and to this Protocol to those Parties included in Annex I undergoing the transition to a market economy and other Parties for which flexibility would also be warranted.

*These provisions come from mutatis mutandis the Finance Article of the Copenhagen Protocol. In addition to deep emission reductions, industrialized countries should also have binding support obligations. These obligations are contained in the Copenhagen Protocol. This provision allows for auctioning under the Kyoto Protocol, then revenues from which would be transferred to the Copenhagen Climate Facility.*

**[AMENDMENTS TO ARTICLE 5 – NATIONAL SYSTEMS & METHODOLOGIES]**

The following paragraph shall be inserted after paragraph 1 of Article 5 of the Protocol:

- 1 bis. Any revisions to the guidelines referred to in paragraph 1 shall be jointly agreed upon by the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol and to this Protocol.

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The following paragraph shall be inserted after paragraph 2 of Article 5 of the Protocol:

2 bis. For the second commitment period, specified in paragraph 7 bis of Article 3, methodologies for estimating anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol shall be those accepted by the Intergovernmental Panel on Climate Change and agreed upon jointly by the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol at its first session and the Conference of the Parties serving as the meeting of the Parties to this Protocol at its corresponding session. Where such methodologies are not used, appropriate adjustments shall be applied according to methodologies agreed upon jointly by the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol at its first session and the Conference of the Parties serving as the meeting of the Parties to this Protocol at its corresponding session. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Copenhagen Protocol shall jointly and regularly review and, as appropriate, revise such methodologies and adjustments, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to methodologies or adjustments shall be used only for the purposes of ascertaining compliance with commitments under Article 3 in respect of any commitment period adopted subsequent to that revision.

*Countries should agree on the methodologies ideally at COP15 or soon there after. These methodologies should apply across the Copenhagen and Kyoto Protocols. Any revisions to the methodologies should be agreed jointly by the CMCP and CMKP.*

The following paragraph shall be inserted after paragraph 3 of Article 5 of the Protocol:

3 bis. For the second commitment period, specified in paragraph 7 bis of Article 3, the global warming potentials used to calculate the carbon dioxide equivalent of anthropogenic emissions by sources and removals by sinks of greenhouse gases listed in Annex A shall be those accepted by the Intergovernmental Panel on Climate Change in its Fourth Assessment Report and agreed upon jointly by the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol at its first session and the Conference of the Parties serving as the meeting of the Parties to this Protocol at its corresponding session. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Copenhagen Protocol shall jointly and regularly review and, as appropriate, revise the global warming potential of each such greenhouse gases, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to a global warming potential shall apply only to commitments

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under Article 3 in respect of any commitment period adopted subsequent to that revision.

*Countries should agree on the GWPs ideally at COP15 or soon thereafter. These GWPs should apply across the Copenhagen and Kyoto Protocols. Any revisions to the GWPs should be agreed jointly by the CMCP and CMKP.*

**[AMENDMENTS TO ARTICLE 7]**

Paragraph 4 of Article 7 of the Protocol shall be amended as follows:

4. The Conference of Parties the serving as the meeting of the Parties to this Protocol shall adopt at its first session, and review **jointly with the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol** periodically thereafter, guidelines for the preparation of the information required under this Article, taking into account guidelines for the preparation of national communications included in Annex I adopted by the Conference of the Parties. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall also, prior to the first commitment period, decide upon modalities for the accounting of assigned amounts. **The Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Copenhagen Protocol may revise the modalities for accounting of assigned amounts units and shall do so jointly. Any revision to the modalities shall apply only to commitments under Article 3 in respect of any commitment period adopted subsequent to that revision.**

*Any changes to the Article 7 rules should be agreed jointly by the CMCP and CMKP.*

**[AMENDMENTS TO ARTICLE 8 – EXPERT REVIEW]**

*[Amendments should be made to Art. 8.1 to reflect that material covered under Art. 7.2 should be subsumed within the ZCAP review process which is much more extensive.]*

The phrase “Committee on Reporting and Review provided for in paragraph 3 of Article 6 of the Copenhagen Protocol” shall replace the word “secretariat” in paragraph 2 of Article 8:

2. Expert review teams shall be coordinated by the ~~secretariat~~ **Committee on Reporting and Review provided for in paragraph 3 of Article 6 of the Copenhagen Protocol** and shall be composed of experts selected from those nominated by Parties to the Convention and, as appropriate, by intergovernmental organizations, in accordance with the guidance provided for this purpose by the Conference of the Parties.

Paragraph 4 of Article 8 of the Protocol shall be amended as follows:

4. The Conference of the serving as the meeting of the Parties to this Protocol shall adopt at its first session, and review **jointly with the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol**

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periodically thereafter, guidelines for the review of the implementation of this Protocol by expert review teams **or the Committee on Reporting and Review provided for in paragraph 3 of Article 6 of the Copenhagen Protocol** taking into account the relevant decisions of the Conference of the Parties.

*Any changes to the Article 8 rules should be agreed jointly by the CMCP and CMKP.*

The following paragraph shall be inserted after paragraph 4 of Article 8 of the Protocol:

4 bis. During the annual review of inventories, the expert review team shall calculate the difference, if any, between a Party's current emissions level and its quantified emission reduction commitment on a prorated basis. If Party's emissions are 15% above its prorated quantified emission reduction commitment, the expert review team shall deem this a problem identified and raise it as a question of implementation.

*An 'automatic referral' to the Compliance Committee should happen when a Party's emissions are 15% above the trajectory needed to meet its emission reduction target. The details of this trigger should be included in the 'Identification of problems' section of Decision 22/CMP.1. This provision is also included in the Copenhagen Protocol – Art. 10.28 (MRV).*

**[AMENDMENTS TO ARTICLE 9 – REVIEW]**

Paragraph 1 of Article 9 shall be amended as follows:

1. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall periodically review this Protocol in the light of the best available scientific information and assessments on climate change and its impacts as well as relevant technical, social and economic information **with a view to ensuring that the ultimate objective of the Convention and the shared vision of this Protocol and the Copenhagen Protocol are met.** Such reviews shall be coordinated with pertinent reviews under the Convention, in particular those required by Article 4, paragraph 2 (d), and Article 7, paragraph 2 (a), of the Convention **and under Article 12 of the Copenhagen Protocol. Submissions from non-governmental organizations and interested stakeholders shall be considered as part of the review.** Based on these reviews, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall take appropriate action, **jointly with the Copenhagen Protocol where appropriate and including increasing the stringency of commitments, as necessary.**

Paragraph 2 of Article 9 shall be amended as follows:

2. The first review shall take place at the second session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. **The third review shall take place by 2014 and shall be based on the findings of the Fifth Assessment Report of the Intergovernmental Panel on Climate**

**Change.** Further reviews shall take place at regular intervals and in a timely manner.

The following paragraph shall be inserted after paragraph 2 of Article 9 of the Protocol:

2 bis. Knowledge of climate change and its impacts, climate sensitivity and tipping points is rapidly evolving and often at a speed greater than the assessment process of the Intergovernmental Panel on Climate Change. An emergency review based on emerging science may be necessary to protect the climate from threshold changes and to be consistent with the precautionary principle enshrined in Article 3 of the Convention. Notwithstanding the provisions of this Article, a three-fourths majority vote may trigger a review process, including examining the need to increase the stringency of commitments, including reductions and limitations in the emission of the greenhouse gases listed in Annex A, at any time. This vote may occur and the review shall proceed, when a three-fourths majority vote of Parties present and voting is obtained, irrespective of whether the rules of procedure of the Conference of the Parties serving as the meeting of the Parties have been adopted or are being provisionally applied.

*An emergency review clause is necessary to avoid dangerous climate change. Parties should make every effort to adopt the rules of procedure in Copenhagen, if this is done the last part of this paragraph may be removed, however the majority requirement should remain. This provision is the same as Article 12.3 in the Copenhagen Protocol*

#### **[AMENDMENTS TO ARTICLE 18 – COMPLIANCE]**

The following Article shall be inserted after Article 18:

#### **Article 18 bis**

1. Pursuant to Article 18, the procedures and mechanisms to determine and to address cases of non-compliance with the provisions of this Protocol shall be those contained in Decision 27 adopted by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session.
2. The objective of the procedures and mechanisms shall be to facilitate, promote and enforce compliance with commitments under this Protocol and the Copenhagen Protocol and to facilitate and promote the achievement of aims under this Protocol as provided for in Decision 27/CMP.1 and elaborated upon in this Article and Article 11 of the Copenhagen Protocol.

#### **FACILITATIVE BRANCH**

3. With the aim of building trust amongst Parties, promoting compliance and providing for early warning of potential non-compliance, the facilitative branch shall be responsible for providing advice and facilitation for compliance with:

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- i) Commitments under Article 3 bis, paragraph 1, of the Protocol, prior to the beginning of the relevant commitment period (auctioning of AAUs);

in addition to those provisions outlined in Decision 27 of the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

*Consideration of the US and NICs emissions targets are covered under the Copenhagen Protocol as are the support obligations for all industrialized countries. The current rules already address the emissions targets and reporting requirements for Annex I countries that have ratified the Kyoto Protocol.*

4. In addition to the consequences the facilitative branch may apply under Dec. 27/CMP.1, the facilitative branch, taking into account the principle of common but differentiated responsibilities and respective capabilities, may decide on the application of one or more of the following consequences as specified in paragraph 6 of Article x of the Copenhagen Protocol.

*The facilitative branch should be able to apply the same consequences for all industrialized countries across both protocols and all types of commitments or obligations.*

### ENFORCEMENT BRANCH

5. The enforcement branch shall be responsible for determining whether a Party included in Annex B is not in compliance with:

- i) The auctioning of [ten] per cent of its assigned amount units per year under Article 3 bis, paragraph 1, of the Protocol;

in addition to those provisions outlined in Decision 27 of the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

*Same as above - Consideration of the US and NICs emissions targets are covered under the Copenhagen Protocol as are the support obligations and certain reporting requirements for all industrialized countries. The current rules already address the emissions targets and reporting requirements for Annex I countries that have ratified the Kyoto Protocol.*

6. In addition to the consequences the enforcement branch may apply under Dec. 27/CMP.1, the enforcement branch, taking into account the principle of common but differentiated responsibilities and respective capabilities, may decide to apply financial penalties. Financial penalties shall be applied for non-compliance with quantified emission reduction commitments or support obligations. All financial penalties shall be paid to the Copenhagen Climate Facility and shall be allocated to the adaptation funding window.

In cases where a Party has paid a bond as provided for in paragraph 9 of Article 11 of the Copenhagen Protocol and proves to be in non-compliance, the amount of the bond shall be subtracted from the total amount of financial penalties to be paid.

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*The 1.3x emission reduction penalty is ineffective and should be replaced by financial penalties. Other means to encourage compliance could also be considered.*

7. The Conference of the Parties serving as the meeting of the Parties to this Protocol and the Copenhagen Protocol shall jointly adopt at the first session of the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol and the corresponding session of the Conference of the Parties serving as the meeting of the Parties to this Protocol modalities for calculating the financial penalties to be applied pursuant to paragraph 6.

8. The Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Copenhagen Protocol shall jointly elaborate on the procedures and mechanisms, including the rules of procedure, as required.

*The CMCP and CMKP should jointly elaborate, but not detract from, the procedures and mechanisms in light of the provisions of this Article.*

**[AMENDMENTS TO ANNEX A]**

*Annex A should be amended to include emissions from international aviation and shipping on the basis of fuels sold within Annex B Parties. This is necessary to ensure comprehensive accounting of emissions from industrialized countries.*

**[AMENDMENTS TO ANNEX B]**

The following table shall replace the table in Annex B of the Protocol:

**Annex B**

<b>Party</b>	<b>Quantified emission limitation or reduction commitment (2008-2012) (percentage of base year or period)</b>	<b>Quantified emission reduction commitment (2013-2017) (percentage of base year or period)</b>
Australia	108	
Austria	92	
Belarus*	92	
Belgium	92	
Bulgaria*	92	
Canada	94	
Croatia*	95	
Czech Republic*	92	
Denmark	92	
Estonia*	92	
European Community	92	
Finland	92	
France	92	

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Germany	92	
Greece	92	
Hungary*	94	
Iceland	110	
Ireland	92	
Italy	92	
Japan	94	
Latvia*	92	
Liechtenstein	92	
Lithuania*	92	
Luxembourg	92	
Monaco	92	
Netherlands	92	
New Zealand	100	
Norway	101	
Poland*	94	
Portugal	92	
Romania*	92	
Russian Federation*	100	
Slovakia*	92	
Slovenia*	92	
Spain	92	
Sweden	92	
Switzerland	92	
Ukraine*	100	
United Kingdom of Great Britain and Northern Ireland	92	
United States of America	93	

\* Countries that are undergoing the process of transition to a market economy.

**ARTICLE 2 – ENTRY INTO FORCE**

1. This Amendment shall enter into force in accordance with Article 20, paragraphs 4 and 5, of the Protocol.

**ARTICLE 3 – PROVISIONAL APPLICATION**

1. The provisions of this Amendment shall be applied and implemented provisionally from the date of its adoption by the Conference of the Parties serving as the meeting of the Parties and shall continue to apply and be implemented on a provisional basis until the entry into force of the Amendment for each Party, except for any such Party which notifies the depositary in writing either that it will not so apply this Amendment or that it will consent to such application only upon subsequent signature or notification in writing.

## COP15/CMP5 DECISIONS

*Many COP15 decisions are required to enhance and accelerate action before 2013 as well as to lay the groundwork for a prompt start of many of the mechanisms contained in the Copenhagen Protocol. Furthermore some negotiations may be advanced enough to start to flesh out the content of some of the Copenhagen Protocol provisions. These decisions would be adopted provisionally pending final adoption at the first Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol similar to the process adopted with the Marrakech Accords. It is anticipated that further decisions of this nature would be adopted at the COP16 as well.*

*COP15 decisions should include capacity building support and financing for, inter alia:*

- GHG inventories/ national systems*
- NAMA/LCAP development and pilot NAMA implementation*
- REDD monitoring and measuring*
- Filling the funding gap for NAPA implementation as well as other funds to increase adaptation readiness*

*CMP decisions are need for minor changes to the rules governing LULUCF, particularly the accounting rules and well as to reform the CDM. The narrative contains the details on how the CDM could be reformed and improved.*

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## **Acronym Glossary**

A1	Annex I Parties
AAF	Adaptation Action Framework
AAU	Assigned Amount Units
AF	Adaptation Fund
AB	Adaptation Board
AIDS	Acquired Immune Deficiency Syndrome
AR4	Intergovernmental Panel on Climate Change's 4 <sup>th</sup> Assessment
AR5	Intergovernmental Panel on Climate Change's 5 <sup>th</sup> Assessment
AWG LCA	Ad Hoc Working Group on Long Term Cooperative Action under the Convention
AWG KP	Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol
BAU	Business as Usual
CCF	Copenhagen Climate Facility
CCS	Carbon Capture and Storage
CDM	Clean Development Mechanism
CIAF	Climate Insurance Assistance Facility, part of Adaptation Action Framework
CIP	Climate Insurance Pool, part of Adaptation Action Framework
CMA	credited mitigation action
CMCP	Conference of the Parties serving as the Meeting of the Parties of the Copenhagen Protocol
CMP	Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol
CMRA	Carbon Market Regulatory Agency
CO <sub>2</sub>	Carbon Dioxide
CO <sub>2</sub> e	Carbon Dioxide Equivalent
COP	Conference of Parties
CP	Copenhagen Protocol
CRIM	Climate Risk Insurance Mechanism, part of Adaptation Action Framework
CRM	Compensation and Rehabilitation Mechanism, part of Adaptation Action Framework
CSO	Civil Society Organization
DNA	Designated National Authority
DOE	Designated Operational Entities
EC	Executive Committee of the Copenhagen Climate Facility
EGTT	Expert Group on Technology Transfer
ERT	Expert Review Team
ExComm	Executive Committee of the Copenhagen Climate Facility
FAO	Food and Agriculture Organization
G77 + China	Group of 77 and China
GDP	Gross Domestic Product
GEF	Global Environment Facility
GHG	Greenhouse Gases
Gt	Gigatonnes
HFC-23	Fluoroform

ICAO	International Civil Aviation Organization
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICM	In-Country Coordinating Mechanism
IMO	International Maritime Organization
IPCC	Intergovernmental Panel on Climate Change
IPR	Intellectual Property Rights
KP	Kyoto Protocol
LCAP	Low Carbon Action Plan, for developing countries
LDCs	Least Developed Countries
LEG	Least Developed Countries Expert Group
LULUCF	Land Use, Land Use Change and Forestry
MB	Mitigation Board of the Copenhagen Climate Facility
MDG	Millennium Development Goals
MOP	Meeting of Parties
MRV	Measuring, Reporting and Verifying
N <sub>2</sub> O	Nitrous Oxide
NA1	Non-Annex I Parties
NAAS	National Adaptation Action Strategies, part of Adaptation Action Framework
NAMA	Nationally Appropriate Mitigation Action, part of Adaptation Action Framework
NAPA	National Adaptation Programmes of Action, part of Adaptation Action Framework
NAT	National Adaptation Trust, part of Adaptation Action Framework
NGO	Non-governmental Organization
NWP	Nairobi Work Programme
ODA	Official Development Assistance
OECD DAC	Organization for Economic Cooperation and Development Assistance Committee
PPP	Purchasing Power Parity
QELRC	Quantified Emission Limitation or Reduction Commitment
QERC	Quantified Emissions Reduction Commitment
RCI	Responsibility and Capability Index
R&D	Research & Development
RD&D	Research Development & Demonstration
REDD	Reducing Emissions from Deforestation and Degradation
RB	REDD Board of the Copenhagen Climate Facility
SD-PAMS	Sustainable Development Policies and Measures
SIDS	Small Island Developing States
SRES	Intergovernmental Panel on Climate Change Special Report on Emissions Scenarios
TAP	Technology Action Programmes
TB	Tuberculosis
TB	Technology Board of the Copenhagen Climate Facility
UNFCCC	United Nations Framework Convention on Climate Change
WB	World Bank
ZCAP	Zero Carbon Action Plan, for industrialized countries

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